

Final Proposed Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

Agency Designation

/s/ Kristin McClure , on 1/13/2025
(signature) (date)

Printed Name and Title:

Kristin McClure, Deputy Secretary, Agency of
Human Services

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

1. TITLE OF RULE FILING:

Agency Designation

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

24P 020

3. ADOPTING AGENCY:

Agency of Human Services (AHS)

4. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Ashley Johns

Agency: Agency of Human Services

Mailing Address: x280 State Drive, Waterbury, VT 05602

Telephone: 802-585-9885 Fax: 802-241-0450

E-Mail: ashley.johns@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

mentalhealth.vermont.gov/policy-and-legislative-resources/rules and

dail.vermont.gov/resources/regulations

5. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Ashley Roy

Agency: Agency of Human Services

Mailing Address: 280 State Drive, Waterbury, VT 05602

Telephone: 802-585-5679 Fax: 802-241-0450

E-Mail: ashley.roy@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

3 V.S.A. §801(b)(11); 18 V.S.A. §§8907, 8911(b), 8913, 8726(b), 8730, and 8731(c).

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

The statutes (cited above) authorize AHS as the adopting authority for administrative procedures and afford rule making authority for the administration of rules pertaining to agencies attached to AHS, which include both the Department of Disabilities, Aging and Independent Living (DAAIL) and the Department of Mental Health (DMH).

9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (150 WORDS OR LESS):

The proposed amendments to the Administrative Rules on Agency Designation update a rule that has not been amended since 2003. These rules establish requirements for agencies providing mental health and intellectual / developmental disability services within distinct geographic regions of Vermont. The updates focus on modernizing language, aligning with current policy and practice, aligning with other Administrative Rules for content and formatting, including direct language from statutes, increasing clarity, increasing plain language, and simplifying and/or modernizing processes.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

This rule is necessary to establish the requirements for community mental health and intellectual/developmental disability services within distinct geographic areas of Vermont. Additionally, this rule establishes the obligations of community mental health and/or intellectual/developmental disability services within the State.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

The rule is required to implement state and federal guidance and laws pertaining to mental health and disability services. The rule is within the authority of two AHS Commissioners specified by statute, is within the expertise of AHS, and is based on relevant factors including consideration of the rule's impact on the people entities listed below.

17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

Persons with a mental health condition or psychiatric disability and persons with developmental disabilities (18 V.S.A. §8907); designated and specialized service agencies; mental health and disability service providers; Agency of Human Services Departments, especially the Department of Disabilities, Aging and Independent Living and the Department of Mental Health; hospitals; health law, police, and related advocacy and community-based organizations and groups, including the Office of Health Care Advocate.

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

This rule does not increase or lessen an economic burden on any person or entity including no impact on the State's gross annualized budget in fiscal year 2025. The proposed amendments focus on updating and modernizing.

19. A HEARING WAS HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 7/10/2024

Time: 10:00 AM

Street Address: 280 State Drive, Waterbury, VT

Zip Code: 05676

URL for Virtual: https://teams.microsoft.com/l/meetup-join/19%3ameeting_MDg1NzhlMTItOGEyNi00MmU1LT1lNmQtMGRhY2MwYWVlNzli%40thread.v2/0?context=%7b%22Tid%22%3a%220b4933b-baad-433c-9c02-70edcc7559c6%22%2c%220id%22%3a%22f68b6278-3f0d-4f85-a834-f248f1a3afc5%22%7d

Meeting ID: 233 703 541 380

Passcode: aZm9nw

Dial in by phone

+1 802-828-7667,,499452086# United States, Montpelier

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

7/17/2024

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Disability Services

Mental Health

Designated Agencies

Specialized Service Agencies

Agency Designation

280 State Drive - Center Building
Waterbury, VT 05671-1000



OFFICE OF THE SECRETARY
TEL: (802) 241-0440
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JENNEY SAMUELSON
SECRETARY

TODD W. DALOZ
DEPUTY SECRETARY

STATE OF VERMONT
AGENCY OF HUMAN SERVICES

MEMORANDUM

TO: Sarah Copeland Hanzas, Secretary of State

FROM: Jenney Samuelson, Secretary, Agency of Human Services

DATE: August 6, 2024

SUBJECT: Signatory Authority for Purposes of Authorizing Administrative Rules

I hereby designate Kristin McClure, Interim Deputy Secretary, Agency of Human Services as signatory to fulfill the duties of the Secretary of the Agency of Human Services as the adopting authority for administrative rules as required by Vermont's Administrative Procedures Act, 3. V.S.A § 801 et seq.

CC: KristinMcClure@vermont.gov

Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

Agency Designation

2. ADOPTING AGENCY:

Agency of Human Services (AHS)

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

SOS log #03-13, Administrative Rules on Agency Designation, effective June 1, 2003.



INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: May 13, 2024, virtually via Microsoft Teams
Members Present: Chair Sean Brown, Diane Sherman, Jared Adler, Jennifer Mojo, Michael Obuchowski, Natalie Weill, and Nicole Dubuque
Members Absent: John Kessler
Minutes By: Melissa Mazza-Paquette

- 2:04 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the April 4, 2024 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- No public comments made.
- Presentation of Proposed Rules on pages 2-7 to follow.
 1. Recovery Services Organization Certification Rule, Vermont Department of Health, page 2
 2. Ambulance Services, Agency of Human Services, page 3
 3. Beneficiary Protections and Responsibilities, Agency of Human Services, page 4
 4. Marriage Ceremony For Incarcerated Individuals, Department of Corrections, page 5
 5. 2024 Materials Management Plan, Agency of Natural Resources, page 6
 6. Agency Designation, Agency of Human Services, page 7
- Next scheduled meeting is June 10, 2024 at 2:00 p.m.
- 3:08 p.m. meeting adjourned.

Proposed Rule: Agency Designation, Agency of Human Services

Presented By: Ashley Johns, Jennifer Garabedian, Eva Dayon and Shayla Livingston

Motion made to accept the rule by Sean Brown, seconded by Nicole Dubuque, and passed unanimously except for Natalie Weill who abstained, with the following recommendations:

1. Proposed Filing – Coversheet:

- a. #8: Incorporate the first two sentences from #9 to describe what the rule is about. Clarify if anything is changing substantively.
- b. #12: Include an explanation as to why there isn't an impact and that the proposed rule is just bringing the rule in alignment with current practice.
- c. Economic Impact Analysis, #3: Summarize and list the categories of people, enterprises, and governmental entities potentially affected by the adoption of this rule and the estimated costs and benefits anticipated.

Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn’t appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

1. TITLE OF RULE FILING:

Agency Designation

2. ADOPTING AGENCY:

Agency of Human Services (AHS)

3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

No impact anticipated. The Agency considered potential impact to AHS and its Departments, designated and specialized service agencies, standing committees, mental health and disability services advocacy organizations, and the Health Care Advocate, and held meetings with those entities in preparation of this amended rule.

4. IMPACT ON SCHOOLS:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

No impact anticipated.

5. ALTERNATIVES: CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.

N/A

6. IMPACT ON SMALL BUSINESSES:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

No impact anticipated.

7. SMALL BUSINESS COMPLIANCE: EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.

N/A

8. COMPARISON:

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

N/A

9. SUFFICIENCY: DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.

There is no additional costs associated with this rule because amendments focus on modernizing language, aligning with current policy and practice, aligning with other Administrative Rules for content and formatting, including direct language from statute, increasing clarity, increasing plain language, and simplifying or modernizing processes.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. TITLE OF RULE FILING:

Agency Designation

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Agency of Human Services (AHS)

3. **GREENHOUSE GAS:** *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*
No impact

4. **WATER:** *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*
No impact

5. **LAND:** *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*
No impact

6. **RECREATION:** *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*
No impact

7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*
No impact
8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*
No impact
9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*
No impact

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

Agency Designation

2. ADOPTING AGENCY:

Agency of Human Services (AHS)

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

In fall 2023, AHS shared an initial draft of the amended rule and held more than a dozen meetings to gather feedback from designated and specialized services agencies, standing committees, mental health and disability services advocacy organizations, the Health Care Advocate. AHS then held three public hearings in December 2023, along with another meeting with designated and specialized services agencies and Vermont Care Partners. AHS will hold another public hearing on or before July 10, 2024.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

Organizations that have already provided feedback and/or will be notified of the upcoming public hearing and public comment period include: State Program Standing Committees, Designated and/or Specialized Service Agencies, Office of the Health Care Advocate, Vermont Care Partners, National Alliance on Mental

Public Input

Illness-Vermont, Vermont Association for Mental Health and Addiction Recovery, MadFreedom, Vermont Psychiatric Survivors, United Way of Northwest Vermont's Mental Health Initiative, Vermont Association of Hospitals and Health Systems, Vermont School Boards Association, Vermont Principals Association, Vermont Superintendents Association, and DAIL and DMH grantees.



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Public Comment Responsiveness Summary
Rule on Agency Designation

A public hearing was held on July 10, 2024, in Waterbury, Vermont, regarding the proposed amendments to the Rule on Agency Designation. The Agency of Human Services received comments at the public hearing and both prior to and during the public comment period, submitted from May 30, 2024, through July 17, 2024.

The following is a summary of comments received from the public, the Department's response to each comment, and details of any modifications made to the Rule language. Comments of a similar nature have been consolidated and responded to accordingly.

1. **Comment:** A commenter recommended that the word "timely" used throughout the Rule should be more clearly defined. If there is a specific rule, regulation, or policy that defines the referenced time, the commenter recommended the rule reference that document.

Response: While "timely" is not defined throughout this rule, there are references to specific instances in which "timely" has a definition, for example in the State System of Care Plan or the DMH Mental Health Provider Manual. Some instances of "timely" are case specific and cannot be defined. No changes were made.

2. **Comment:** A commenter inquired whether use of the phrases "developmental disability" and "intellectual disability" were proper throughout the Rule.

Response: Ensuring appropriate reference to both "intellectual disability" and "developmental disability" throughout this document is important. Generally, Developmental Disabilities Services (DDS) are available to individuals diagnosed with either (or both) intellectual or developmental disabilities who meet eligibility criteria (clinical, financial and access criteria). Some aspects of the DDS system are statutorily only available to individuals who are clinically determined to have an "intellectual disability", so care was taken to ensure proper reference is made in any applicable sections. The definitions of "developmental disability" (§3.10) and "intellectual disability" (§3.17) delineate the differences. No changes were made.

3. **Comment:** A commenter recommended that throughout the word "regulation" should be replaced with specific reference to the applicable regulation and/or include a clear definition about the regulation being referenced.



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Response: While we make every effort to be specific in this document, there is also a need for some degree of flexibility given that regulations may change between Rule updates, especially in light of the multiple systemic reforms currently underway for these two populations served. No changes were made.

4. **Comment:** A commenter recommended including reference to appeals in circumstances where an individual seeks to obtain services outside of the Medicaid network in the definition of “Individual Appeal” (§3.16).

Response: These rules do not have any authority over Medicaid appeals processes. No changes were made.

5. **Comment:** A commenter recommended clarifying the definition of “Intellectual Disability” (§3.17) to reference the standards outlined in the Developmental Disability Act. Specifically, use of the phrase “on most tests” leaves the definition open to interpretation.

Response: The definition of “intellectual disability” in this rule aligns with the definition of “intellectual disability” found in the Health Care Administrative Rules 7.100.3(d):

Intellectual disability defined.

(1) “Intellectual disability” means significantly sub-average cognitive functioning that is at least two standard deviations below the mean for a similar age normative comparison group. On most tests, this is documented by a full-scale score of 70 or below, or up to 75 or below when taking into account the standard error of measurement, on an appropriate norm-referenced standardized test of intelligence and resulting in significant deficits in adaptive behavior manifested before age 18.

(2) “Intellectual disability” includes severe cognitive deficits which result from brain injury or disease if the injury or disease resulted in deficits in adaptive functioning before age 18. A person with a diagnosis of “learning impairment” has intellectual disability if the person meets the criteria for determining “intellectual disability” outlined in 7.100.3(e)

No changes were made.

6. **Comment:** A commenter recommended using consistent language for the “community services plan” and/or “local system of care plan” throughout. The commenter recommended using a singular phrase or clearly defining the difference between these two phrases and noted that there should be clear delineation based on the definitions of “system of care plan” (§3.26) and “local community services plan” (§3.18).



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Response: The “system of care plan” or “state system of care plan”, defined in §3.26 and the “local community services plan” defined in §3.18 are separate and distinct documents. As there have been historic references to the “local community services plan” as a “local system of care plan” that is noted in the definition but the phrase “local community service plan” is used throughout the rule to ensure clarity and delineation between these two documents. No changes were made.

7. **Comment:** A commenter recommended the language in multiple sections (§3.23; §3.24; §4.3.4.6; §4.12.2.1) be updated to capture the intended future state for DDS providers under Conflict-of-Interest mitigation.

Response: This Rule is being written to capture current state. It will need to be updated to address the future state when Conflict of Interest, among other systemic changes, are finalized. No changes were made.

8. **Comment:** A commenter recommended that §4.1 include reference to any guidelines/policies applicable to the DAs/SSAs that are not included in the State System of Care Plan, Mental Health Provider Manual, and/or state/federal regulation.

Response: This section was updated to add reference to contracts, grant agreements, or other legally enforceable documents.

9. **Comment:** A commenter inquired if §4.1.6, the designation period which last for four years, will be updated to a more frequent timeline.

Response: For the purposes for this Rule, four years is the intended timeframe for designation. Some parts of a review process that will contribute to a designation may happen more frequently. No changes were made.

10. **Comment:** Commenters recommended clarifying language be added to §4.1.9 to ensure that the Department is not bound to review and approve any contract entered by the DA/SSA.

Response: The purpose of this portion of the rule is to ensure that a Designated Agency does not enter a merger or contract that would negatively impact service delivery to Vermonters in that catchment area. To ensure clarity in this section, the Department has modified the language to read as follows:

Designated Agencies shall request and obtain approval from the appropriate Department(s) prior to any merger or contract with another Agency or organization, when that merger or contract impacts service delivery.



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11. **Comment:** A commenter recommended adding clarifying language to §4.2.1.3 that the Department may seek an SSA.

Response: Current language in the Rule accounts for this potentiality and lays out the process for that agency receive the appropriate recognition. No changes were made.

12. **Comment:** A commenter recommended that language be added to §4.2.2 to identify what “notice” from the Commissioner is being referenced in §4.2.2.2.

Response: We have updated this sentence to clarify it is a ‘notice letter’, which is the current title on the document that is core to the existing process.

13. **Comment:** A commenter inquired whether, for §4.2.3, a Center of Excellence certification will count for accreditation.

Response: AHS review teams welcome supplemental review documentation to augment materials requested. However, the Center of Excellence standards are not a sufficient replacement of the Administrative Rule on Agency Designation. No changes were made.

14. **Comment:** A commenter recommended that non-discrimination referenced in this rule should be included in any contracts entered by the DA/SSA and that the lists of non-discrimination in the rule (§4.3.3.1 and §4.12.1.4) should match each other and statutory guidance.

Response: Section 4.12.1.4 has been modified to state “‘The Agency shall have written policies prohibiting discrimination, as described in 4.3.3.1’.”

15. **Comment:** A commenter recommended that the language in §4.3.3.2 add ‘Designated’ to clarify this does not apply to Specialized Services Agencies.

Response: This change was made to add clarity to the section.

16. **Comment:** A commenter inquired if the language in §4.3.3.5 is only about Orders of Non-Hospitalization or broader for other legal matters.

Response: The language in §4.3.3.5 (“The Agency shall facilitate all necessary referrals to external providers.”) does not relate to legal matters. The Department assumes this question is in reference to §4.3.4.8 (The Agency shall ensure... “[t]he provision in a timely manner of services needed to assist the Commissioner in any relevant legal proceedings, including



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transmission of records and witness statements.”). That paragraph is not limited to Orders of Non-Hospitalization. No changes were made.

17. **Comment:** A commenter recommended that language be added to §4.5 to state “Ensuing culturally and linguistically appropriate intake and assessment of eligibility for services.”

Response: This recommendation aligns well with the intent of the section and has been added.

18. **Comment:** A commenter recommended the language in §4.5.7 be revised to say, “Ensuring information related to the grievance and appeal process is accessible to the individual.”

Response: This change was made to add specificity to the section.

19. **Comment:** A commenter recommended removing the entire statement §4.6.1.10 stating it was too broad and will waste board time. The commenter also recommends that if the language stays, it is specific to human resources or fiscal policy.

Response: The narrowing of scope in this section to ‘new policy’ or ‘significant updates’ is intended to capture broad policy change. No changes were made.

20. **Comment:** A commenter recommended that the language in §4.6.1.12 state the board will “Oversee quality, including the review of aggregate data reflecting grievances, appeals, and individuals’ reported satisfaction.”

Response: The term “individual service appeals” is used to differentiate between this client-specific process and appeals, as an Agency process. It is not the intention that the Board review specific cases, and for clarity, the language has been modified to state: “[the Board of Directors or equivalent will...] Oversee service quality, including the review of aggregate individual satisfaction information, and aggregate information on grievances and individual service appeals.”

21. **Comment:** A commenter recommended that the language in §4.6.1.14 may not be necessary. The commenter asked, “Under what circumstances would it be appropriate for the board to be deliberating on any individual staff person (excluding the ED) or individual served?”

Response: The Board of a Designated Agency is required by §4.6.1.14 to “maintain confidentiality regarding the information it receives during its deliberations on Agency staff and individuals.” Circumstances may arise in which the Board may deliberate on staff or individual clients, either in the aggregate or in their individual capacities. The inclusion of this paragraph ensures information received during those deliberations remains confidential.



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22. **Comment:** A commenter noted that in §4.7.2.3, the reference to §4.6.2.1 is incorrect.

Response: This reference has been modified to refer to §4.7.2.1.

23. **Comment:** A commenter recommended that the language in §4.7.2.2 state “staff role” and not “individual name”.

Response: The language in §4.7.2.2 requires “[a]t least one member of each Local Program Standing Committee shall serve as a voting member of the Agency Board of Directors (or equivalent).” The Department assumes this comment is in reference to §4.7.2.1 which requires “Each Local Program Standing Committee shall be comprised of at least five members, a majority of whom shall be disclosed individuals with direct lived experience and/or family members.” Identifying the member by “staff role” would not ensure that this requirement is met, as it requires the individual have lived experience, which is unlikely to be a requirement of a specific staff role, but rather unique to the individual filling that staff role. No changes were made.

24. **Comment:** A commenter recommended that the language in §4.7.3.1.2.2 be rewritten to state, “Agency or program training plan, as described in §4.12, which shall be updated as needed and at least every three years for DDS services.”

Response: This section has been modified to: “Agency or program training plan, as described in §4.12, which shall be updated every three years and reviewed at least annually for DDS.”

25. **Comment:** A commenter recommended that language in §4.11.2 be updated to add “their families and/or guardians” to §4.11.2.2 and “Local Program Standing Committee(s) to the groups identified in §4.11.2.

Response: This recommendation aligns well with the intent of this section and has been added.

26. **Comment:** A commenter recommended changing the word “types” to “roles” in §4.12.2.1.

Response: This change was made to add clarity to the section.

27. **Comment:** A commenter recommended that the language in §4.12.2.1.1 is confusing to broadly mention cultural responsiveness and specifically considerations for veterans and recommends breaking these topics into two statements.



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Response: This section has been adjusted to reflect groups identified in 4.3.3.1, as follows:
“Cultural responsiveness with considerations for groups identified in 4.3.3.1”

28. **Comment:** A commenter recommended that the language in §4.12.2.4 be updated to reflect that “DDS Rule” is no longer the title of the relevant rules. The commenter also recommended citing to the specific rules in each referenced document in this section.

29. **Response:** The language in 4.12.2.4 has been updated to reference the Health Care Administrative Rule 7.100, titled, "Disability Services-Developmental disabilities. "

30. **Comment:** A commenter recommended that the language in §4.13 add a statement to explicitly name that confidentiality rules should not be used to create undue barriers to collaboration in support of a shared client.

Response: Collaboration in service of clients and families is critical to quality care and it is not our intention for the Rule to create barriers to collaboration. The current language should not create undue barriers to collaboration. No changes were made.

31. **Comment:** A commenter recommended that the language in §4.15.1.1.1 be updated to clarify that the requirement for accessibility in physical spaces is specific to office buildings open to the public, which allows for more flexibility for private homes/apartments used for crisis supports.

Response: Private homes/apartments are an exception to the Americans with Disabilities Act (ADA). Provider owned settings, such as group homes, have a parallel standard to the ADA requirements. Modification was made to reflect that the ADA requirements do not apply to private homes or apartments.

32. **Comment:** A commenter recommended that the language in §4.15.1.2 add the term ‘needs’ for clarity. It would read: “The inclusion of transportation needs to access necessary supports and services must be included in the development of an individual's service plan.”

Response: This change was made to add clarity to the section.

33. **Comment:** A commenter recommended that the language in §4.16.1 add in requirements that the receiving agency of a client transfer are also responsibly for the transition of care.

Response: This section of the rule specifically addresses a plan for continuity of care based on an Agency’s voluntary or involuntary closure. An agency receiving a transferred client will



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follow all applicable rules in engaging and treating a transferred client, just as they would a new client. No changes were made.

34. **Comment:** A commenter recommended that the language “provide or arrange for the provision of” in §4.1.7 be phrased consistently with the language in DA/SSA grant agreements.

Response: Designated agencies will be expected to follow these rules upon their effective date. Grant agreements will not conflict with these provisions. No changes were made.

35. **Comment:** A commenter inquired if the statement in §7.1.6.3 around the department seeking a new designated agency in a region would be halted if the agency under provisional status was about to correct the area of concern?

Response: Our intention is to provide the best, most seamless care for vulnerable Vermonters. In this scenario, the Commissioner(s) would decide how to proceed. No changes were made.

36. **Comment:** A commenter stated that the language in §7.1.13 (An Agency may be placed on provisional status at any time, following a determination by the Commissioner that the Agency has: “Violated an individuals' human or civil rights”) should be modified because it is impossible to avoid civil and human rights violations. The commenter recommended the language be revised to “Knowingly violating an individual’s human or civil rights without due process. Rights restrictions implemented in response to emergent health or safety needs must be reviewed within 60 days.”

Response: The Department disagrees that it is impossible to avoid civil and human rights’ violations and declines to adopt the recommended language.

37. **Comment:** A commenter stated that the language in §7.2.1.1 is unclear in that an agency that meets criteria for §7.1.1 could either be put on provisional status or be designated.

Response: Thank you for the feedback. We hope that an agency will never take an action that warrants de-designation without the potential for corrective action, and it is feasibly possible.



TO: Agency of Human Services
 FROM: Vermont Care Partners
 RE: DA/SSA Administrative Rule Updates 2024

Please see below, feedback on the DA/SSA Administrative Rules Draft #2. The feedback is provided by Vermont Care Partners on behalf of the 16 network agencies. If you have any questions, please contact Amy Johnson at amy@vermontcarepartners.org or (269) 873-1207.

Some comments below include references to future systems change which may or may not be relevant to this current update of the DA/SSA Administrative Rules.

Topic/Section	Change/Feedback Recs	Rationale	Name of Respondent
4.3.3.2 The inability of an Agency to meet the needs of an individual shall not be a factor in any decision by the Agency to refuse to serve the individual.	Please make applicable to Designated Agencies only. Suggest: The inability of a Designated Agency (does not apply to SSAs) to meet the needs of an individuals shall not....	This is the specific latitude that SSAs have and is exactly what we do, by nature of our specialization This is in fact the most important question we ask before deciding to accept someone into our services. The first comment is very problematic for SSA's and must be removed or changed (see changes/feedback).	VCP
4.5.6 Ensuring grievance and appeal processes are culturally and linguistically appropriate	Suggest: Ensuring information related to the grievance and appeal process is accessible to the individual.	This is important due to the fact that the Grievance and Appeals Manual is highly, rigidly prescriptive with respect to process.	VCP
4.6.1.1.2 At least 51% of the Board must be	No change suggested.	Just an observation: This new, broadened definition of family	VCP

individuals with lived experience or family members of individuals with lived experience.		member (enduring bonds of affection not dependent on a financial benefit) could help our boards to be in compliance.	
4.6.1.10 Recommend or approve new Agency policy and significant policy updates.	Suggest: <ol style="list-style-type: none"> 1. Striking this altogether 2. This warrants an in-depth discussion with DAIL to understand the intent behind this recommendation 	This is excessively broad. This would be wasteful of the board's time; a board would either rubber stamp recommended policies or, worse, attempt to influence policies that it lacks the expertise to inform. Was this meant to be more focused on, for example, HR or fiscal policies?	VCP
4.6.1.12 Oversee service quality, including the review of individual satisfaction information, and information on grievances and individual service appeals.	Suggest: Oversee quality, including the review of aggregate data reflecting grievances, appeals, and individuals' reported satisfaction.	Is the intent really that the board would receive information about individual's service appeals? Summary information (frequency, types of appeals, etc.) would be fine, but, as written, this seems intrusive into individual's privacy. THIS, on page 17, by contrast seems appropriate: 4.7.3.1.2.5 Aggregate complaint, grievance, and appeal data and agency responses to any themes identified.	VCP

4.6.1.14 Maintain confidentiality regarding the information it receives during its deliberations on Agency staff and individuals.	No change recommended. (It would protect people if for some reason the board did need to discuss a particular individual or employee in executive session. It should, generally, sit there as an unnecessary but harmless provision.)	Under what circumstances would it be appropriate for the board to be deliberating on any individual staff person (excluding the ED) or individual served?	VCP
4.7.2.3 The Local Program Standing Committee may be comprised totally of agency board members if criterion 4.6.2.1 is met.	No change recommended.	Is 4.6.2.1 the correct reference?	VCP
4.7.3.1.2.2 Agency or program training plan, as described in 4.12, which shall be updated annually for DDS services	Suggest: Agency or program training plan, as described in 4.12, which shall be updated as needed and at least every three years for DDS services.	The DD Act requires the plan to be updated every three years (and as needed) not every year. HCAR 7.100 says the same. Is this an intentional change? It's repeated later on so it appears so. It is administratively burdensome to require the plan to be updated annually.	VCP
4.15.1.1.1 Accessible parking, entrances, private meeting space and bathrooms shall be available in each building that is open to	Suggest: Accessible parking, entrances, private meeting space and bathrooms shall be available in each OFFICE building that is open to	Many of us have homes/apartments that we use for crisis supports that are not ADA accessible, and that certainly don't provide private meeting space.	VCP

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the public and/or used for the provision of services.	the public and/or used for the provision of services.		
7.1.1.3 Violated an individuals' human or civil rights;	Suggest: Knowingly violated an individual's human or civil rights without due process. Rights restrictions implemented in response to emergent health or safety needs must be reviewed within 60 days.	This sounds and feels good, but it's impossible to avoid.	VCP
7.2.1.1 The Agency has been placed on provisional status and has exhibited the unwillingness or inability to improve performance as specified in the Plan of Corrective Action and within the timeframes established by DMH/DAIL; or 7.2.1.2 The Commissioner determines an Agency meets one or more of the criteria identified in Section 7.1.1.	Suggest: a broader discussion on this with legal counsel present.	This feels circular in nature. Meeting 7.1.1 criteria puts you into provisional designation with a CAP, but here it seems to say that the Commissioner can instead (OR 7.2.1.2) move directly to cancel the contract.	VCP
3.23 Definitions Medicaid Program "Self/Family Managed Services"	Suggest: might need to include the roles and responsibilities of ARIS	Pending COI and payment reform changes. Current proposal is for ARIS to take oversight of all or part of self/family managed services	VCP

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<p>3.24 Definitions Medicaid Program "Shared Managed Services"</p>	<p>Suggest: might need to include the roles and responsibilities of ARIS or the CME</p>	<p>Pending COI and payment reform changes. Current proposal is for ARIS to take oversight of part of shared managed services</p>	<p>VCP</p>
<p>4.3.4.6 Service Delivery Policies Intake and eligibility</p>	<p>Section might need to be revised or deleted according to proposed plan for DDSD and CME responsibilities</p>	<p>COI changes that remove these responsibilities from agencies. CME will be responsible for "information and referral to community and government resources, education about choices for service, and support options, including self/family-managed services where applicable" DDSD will be responsible for "timely processing of: individual applications for Service"</p>	<p>VCP</p>
<p>4.12.2.1</p>	<p>Might need clarification</p>	<p>pending COI and payment reform changes that might affect oversight responsibility of certain sub-contractors</p>	<p>VCP</p>
<p>4.1.6</p>	<p>States there will be a four-year designation period. Will there be a two-year review part way through? If so, will the</p>		<p>VCP</p>

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	document have it included?		
4.2.3	Will Centers of Excellence count for accreditation?		VCP
4.3.3.5	Does this only mean ONHs or does it include other legal matters?		VCP
4.7.2.2	Would like it to say staff role and not individual name	Would be difficult to name a staff with staff turnover.	VCP
4.1.9: Designated Agencies shall request and obtain approval from the appropriate Department(s) prior to any merger or contract that impacts service delivery with another Agency or organization.	Designated Agencies shall request and obtain approval from the appropriate Department(s) prior to any merger that impacts service delivery with another Agency or organization.	This is problematic as we have contracts and agreements with other providers that may overlap with another DA. This would read that we need DMH approval before contracting	VCP
4.15.1.2: The inclusion of transportation to access necessary supports and services must be included in the development of an individual's service plan.	The inclusion of transportation needs to access necessary supports and services must be included in the development of an individual's service plan.	New language provides clarity. The former could be interpreted as everyone needs transportation services.	VCP
7.1.6.3 : Initiate the process to identify a new Designated Agency for that geographic area.		If DA under provisional designation is able to respond and correct the issues raised, will DMH halt the process of identifying a new DA for that area?	VCP

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Designated Agencies Rule

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Final Proposed Rule

1.0 Authority

1.1 This rule is adopted pursuant to 18 V.S.A. §§ 8907, 8911(b), 8913, 8726(b), 8730, and 8731(c).

2.0 Purpose

2.1 This rule establishes the requirements for the designation of nonprofit agencies (“Designated Agencies”) by the Agency of Human Services (AHS) to provide community mental health and intellectual/developmental disability services within distinct geographic areas of Vermont. Additionally, this rule establishes the ~~designation obligation~~ of “Specialized Service Agencies” by AHS to provide either community mental health or intellectual/developmental disability services ~~throughout~~ within the State.

~~2.1.2~~ AHS will review this rule annually and update its content, as deemed necessary by AHS, to promote alignment with nationally recognized best practices, state initiatives advancing quality and equity in care delivery, and all applicable state and federal laws.

3.0 Definitions

~~“Commissioner” means either the Commissioner of the Vermont Department of Mental Health (DMH) or the Commissioner of the Vermont Department of Disabilities, Aging and Independent Living (DAIIL), as indicated. “Commissioners” refers to both collectively.~~

~~“Departments” means the Department of Disabilities, Aging and Independent Living and the Department of Mental Health.~~

3.1 ~~“Agency” means a Designated Agency (DA) or a Specialized Service Agency (SSA). “Adverse benefit determination” means any of the following:~~

3.1.1 ~~Denial or limited authorization of a requested service, including determinations based on the type or level of service, requirements of medical necessity, appropriateness, setting, or effectiveness of a covered service.~~

3.1.2 ~~Reduction, suspension, or termination of a previously authorized service.~~

3.1.3 ~~Denial, in whole or in part, of payment for a service.~~

3.1.4 ~~Failure to provide services in a timely manner, as defined by the Agency of Human Services.~~

3.1.5 ~~Failure to act within timeframes regarding standard resolution of grievances~~

and appeals.

3.1.6 Denial of a beneficiary's request to obtain services outside the network,

3.1.7 Denial of a beneficiary's request to dispute a financial liability, including cost sharing, copayments, premiums, deductibles, coinsurance, and other beneficiary liabilities."

3.2 "Agency" means a Designated Agency (DA) or a Specialized Service Agency (SSA).

3.3 "Board" means the Board of Directors (or equivalent) of an agency/Agency.

3.4 "Catchment Area" means a Designated Agency's geographic service area, as determined by the Commissioner of DMH and/or the Commissioner of DAIL.

3.5 "Certification" means the process by which DA/L's Developmental Disabilities Services Division (DDSD) determines whether a provider meets minimum standards to provide publicly funded supports or services to people with intellectual/ developmental disabilities and/or their families. Certification is also known as designation, and designation are interchangeable terms for the purposes of this Rule/DDSD. ;

—"Individual" or "Individual with Lived Experience" means a person who is, or was, eligible to receive services from an agency/Agency because of their disability.

3.6 "Individual Appeals" means an internal review by the Medicaid Program of an adverse benefit determination."

3.1—"Commissioner" means either the Commissioner of the Vermont Department of Mental Health (DMH) or the Commissioner of the Vermont Department of Disabilities, Aging, and Independent Living (DAIL), as indicated. "Commissioners" refers to both collectively.

3.7 "Complaint" means the same as "Grievance" below, with the exception that it can be resolved in one interaction with the initial staff receiving the issue.

Receipt can be written or verbal.

means...

3.8 "Day" means calendar day, not working/business day, unless otherwise specified.

3.9 "Department" means either the Department of Disabilities, Aging and Independent

Living (DAIL), or the Department of Mental Health (DMH), as indicated. "Departments" means both DAIL and DMH collectively.

3.10 "Developmental Disability" (DD) means an intellectual disability or an autism spectrum disorder which occurred before age 18 and which results in significant deficits in adaptive behavior that manifested before age 18.

3.10.1 Temporary deficits in cognitive functioning or adaptive behavior as the result of sever emotion disturbance before age 18 are not a developmental disability.

3.10.2 The onset after age 18 of impaired intellectual or adaptive function due to drugs, accident disease, emotional disturbance or other causes is not a developmental disability.

3.11 "Disclosed individual" means an individual who openly discloses their disability to the Agency.

3.12 "Disability" means, with respect to an individual:

3.12.1 A physical or mental impairment, including alcoholism and substance abuse, as defined by the Americans with Disabilities Act, that substantially limits one or more of the major life activities of the individual; or

3.12.2 A record of such an impairment; or

3.12.3 Being regarded as having such an impairment.

~~—"ClientIndividual" means an individual person who is, or was, eligible to receive services from an agency because of their disability.~~

~~—"Disclosed clientIndividual" means a client person who openly discloses their disability.~~

3.13 "Family member" means an individual who is related to a person with a disability by blood, marriage, civil union, or adoption, or considers themselves to be family based upon bonds of affection, and who currently shares a household with the individual with a disability or has, in the past, shared a household with that individual. For the purposes of this definition the phrase, "bonds of affection" means enduring ties that do not depend on the existence of an economic relationship. See the section on Individual Rights for limitations on family member participation.

3.23.14 "Grievance" means an expression of dissatisfaction about any matter that is not an adverse benefit determination, including an i-member's clientIndividual's right to dispute an extension of time proposed by the Medicaid Program and the denial of a request for an expedited appeal. Possible subjects for grievances include, but are

not limited to, the quality of care or services provided, aspects of interpersonal relationships such as rudeness of a provider or employee, or failure to respect the member's rights.

3.15 "Individual" or "Individual with Lived Experience" means a person who is, or was, eligible to receive services from an Agency because of their disability.

3.16 "Individual Appeal" means an internal review by the Medicaid Program of an adverse benefit determination."

3.33.17 "Intellectual Disability" defined.

3.3.13.17.1 Intellectual disability means significantly sub-average cognitive functioning that is at least two standard deviations below the normative comparison group. On most tests, this is documented by a full-scale score of 70 or below, or up to 75 or below when taking into account the standard error of measurement, on an appropriate norm-reference standardized test of intelligence and resulting in significant deficits in adaptive behavior manifested before age 18.

3.3.23.17.2 Intellectual disability includes severe cognitive deficits which result from brain injury or disease if the injury or disease resulted in deficits in adaptive functioning before age 18.

3.18 "Local Community Services Plan," means the plan required by 18 V.S.A. § 8908 which describes the methods by which an Agency will provide those services." This was formally previously referred to as a Local System of Care Plan.

"Major deficiencies" means those that affect the agency's ability to meet the essential elements of the requirements contained in Section [#] of these rules.

3.19 "Medicaid Program" means:

3.19.1 The Department of Vermont Health Access (DVHA) in its managed care function of administering services, including service authorization decisions, under the Global Commitment to Health Waiver ("the Waiver");

3.19.2 A State Department within of the Vermont Agency of Human Services (AHS) (i.e., Department for Children and Families; Department of Disabilities, Aging, and Independent Living; Department of Health; and Department of Mental Health) with which DVHA enters into an agreement delegating its managed care functions including providing and administering services such as service authorization decisions, under the Waiver;

3.19.3 A Designated Agency or a Specialized Service Agency to the extent that it carries out managed care functions under the Waiver, including providing and administering services such as service authorization decisions, based upon an agreement with a State department/Department of within AHS; and

3.19.4 Any subcontractor performing service authorization decisions on behalf of a State department/Department within of AHS.

3.20 "Provider Agreement" means the service contract signed by the Agency and either the Department of Disabilities, Aging and Independent Living, or the Department of Mental Health.

~~"Terms deemed inclusive of guardian" means, unless otherwise specified, any reference to an applicant, service recipient, client/Individual, person or individual is deemed to refer to the person's guardian if the person has a guardian and if the action or notification lies within the authority of the guardian.~~

3.21 "Related party" means all affiliates of an agency/Agency, including the affiliate's management and their immediate family members/significant others; the affiliate's principal owner(s) and families/significant others; investments accounted for by the equity method; beneficial employee trusts managed by management of the agency/Agency and any party that may, or does, conduct business with the agency/Agency and has ownership, control, or significant influence over the management or operating policies of another party to the extent that an arm's length transaction may not be achieved.

3.22 "Related-party transaction" means a transaction in which one party to the transaction has the ability to impose contract terms that would not have occurred if one of the parties was not a related party.

3.23 "Self/family/family-managed" services means the recipient/Individual or their family plans, establishes, coordinates, maintains, and monitors all developmental disabilities services and manages the recipient's/Individual's budget within federal and state guidelines.

3.24 "Share-managed" means that the recipient/Individual or his or her/their family manages some but not all Medicaid-funded developmental disabilities services, and an agency manages the remaining services.

3.25 "Specialized Service Agency" or "SSA" means an agency contracted by the Department(s) to provide specialized services which are needed by persons with a mental condition or psychiatric disability, or children and adolescents with a severe emotional disturbance, and which are not available from designated community mental health agencies or an agency contracted by the Department(s) to provide specialized services needed by persons with intellectual/developmental disabilities to offer greater choice. "Specialized Service Agency" or "SSA" means an agency

contracted by the Department(s) to provide specialized services or offer a greater choice in services which are needed by individuals with a serious mental illness, or children and adolescents with a severe emotional disturbance, and/or for persons with developmental disabilities.

3.26 “System of care plan” and “State system of care plan” means the plan require by 18 V.S.A. §8725 describing the nature, extent, allocation, and timing of services that will be provided to people with developmental disabilities and their families.

“Terms deemed inclusive of guardian” means, unless otherwise specified, any reference to an applicant, service recipient, client/individual, person or individual is deemed to refer to the person’s guardian if the person has a guardian and the action or notification lies within the authority of the guardian.

“Local System of Care Plan” means the same as “Local Community Services Plan,” which is in 18 §908.

4.0 ...

5.04.0 Designated and Specialized Service Agencies

4.1 General Requirements

5.1

4.1.1 A Within the limits of available resources, each designated community mental health or developmental disability agency shall plan, develop, and provide or otherwise arrange for those community mental health or developmental disability services that are not assigned by law to the exclusive jurisdiction of another agency and which are needed by and not otherwise available to persons with a mental condition or psychiatric disability or a developmental disability or children and adolescents with a severe emotional disturbance in accordance with the provisions of 33 V.S.A. chapter 43 who reside within the geographic area served by the agency. Designated Agency (DA) and Specialized Service Agency (SSA) shall comply with all applicable State and federal regulations, contracts, grant agreements, or other legally enforceable documents.

5.1.1

~~5.1.2~~ An Agency ~~DA or SSA~~ contracted through DAIL shall comply with the State System of Care Plan for Developmental Disabilities Services.

~~4.1.2~~

~~5.1.3~~

~~5.1.4~~ A ~~DA or SSA~~ Agency contracted through DMH shall comply with the DMH Mental Health Provider Manual.

~~4.1.3~~

~~5.2~~ Geographic Area

~~5.2.1~~ The geographic area for each designated agency shall be defined by the Commissioner.

~~5.2.1.1~~ Any change in the geographic area of a designated agency may be appealed through the process detailed in Section 9.

~~5.2.2~~ Types of Services Provided

~~4.1.4~~ Agency ~~D~~designations shall be determined based on the specific population(s) served by the ~~Department~~Department(s):

~~5.2.2.1~~ Individuals with intellectual/developmental disabilities; and

~~4.1.4.1~~

~~—Adults with mental illness, or with significant mental health needs; and children and adolescents with, or at risk of, severe emotional disturbance, or with significant mental health needs, and their families~~

~~5.2.2.2~~ Individuals with developmental disabilities;

~~4.1.4.2~~

~~5.2.2.3~~ Adults with mental illness, or with significant behavioral healthmental health needs; and Children and adolescents with, or at risk of, severe emotional disturbance, or with significant behavioral healthmental health needs, and their families

~~5.2.3~~ An Agency may have multiple designations.

~~4.1.5~~

~~5.2.3.1~~

~~5.2.3.2~~ An agency may have multiple designations.

~~5.2.4~~ Agency designations are for a period not to exceed four years, unless extended by the Commissioner.

~~4.1.6~~

~~4.1.7~~ Agencies may provide services directly and/or may enter into agreements with individuals or organizations for the provision of services.

~~4.1.8~~ Agencies designated in the area of Developmental Disabilities may only provide services directly if they have been certified by DDS to deliver these services, as required by the 18.V.S.A., Chapter 204A.

~~4.1.9~~ Designated Agencies shall request and obtain approval from the appropriate Department(s) prior to any merger or affiliation with another Agency or organization shall request and obtain approval from the appropriate Department(s) prior to any merger or contract that impacts service delivery with another Agency or organization when that merger or contract impacts service delivery.

~~5.2.4.1~~

~~5.2.5~~ Designated Agencies shall establish, provide, coordinate, and administer services and supports for people for whom it is designated to assure services.

~~Agencies may provide services directly and/or may enter into agreements with individuals or organizations for the provision of services.~~

~~Agencies designated in the area of Developmental Disabilities may only provide services directly if they have been certified by DDS to deliver these services, as required by the 18.V.S.A., Chapter 204A.~~

~~Designated agencies shall consult request and obtain approval from the appropriate Department(s) prior to any merger or affiliation with another Agency or organization seek approval by with the appropriate Department(s) when a merger or affiliation with another Agency or organization is under consideration by the designated Agency Board of Directors.~~

~~5.2.5.1.1~~ Agencies may provide services directly and/or may enter into agreements with individuals or organizations for the provision of services.

~~Agencies designated in the area of Developmental Disabilities may only provide services directly if they have been certified by DDS to deliver these services, as required by the 18.V.S.A., Chapter 204A.~~

~~Designated agencies shall consult with the Department when a merger or affiliation with another agency or organization is under consideration by the designated agency Board of Directors~~

~~5.2.5.2~~

~~4.2~~ Requirements for Initial Agency Designation Process

~~5.3~~

~~5.3.14.2.1~~ General Initial Designation

~~5.3.1.14.2.1.1~~ A Designated Agency shall be incorporated to do business in the State of Vermont as a nonprofit organization and shall have received or applied for federal recognition as a tax-exempt charitable organization as defined in Section 501(c)(3) of the Internal Revenue Code of the United States.

~~4.2.1~~ Agencies may apply for initial designation if: An organization may apply for initial designation as a Designated Agency if:

~~5.3.1.1.14.2.1.2.1~~ The Designated agency Agency for the catchment area is notified by the Commissioner of intent to de-designate; or

~~4.2.1.2.2~~ The Designated agency Agency for the catchment area will not apply for re-designation.

~~4.2.1.3~~ An organization may apply for initial designation as a Specialize Service Agency if:

~~4.2.1.3.1~~ The organization offers a distinctive approach to service delivery and ecoordination coordination

~~5.3.1.1.2~~ Services meet distinctive distinctive individual needs

~~4.2.1.3.2~~

~~5.3.1.24.2.1.4~~ An Agency shall apply for initial designation using the application provided by the Department Department(s).

~~5.3.1.3 The Agency shall submit a program plan and program budget to the Commissioner for review and approval.~~

~~5.3.1.4 An Agency shall not preclude anyone from receiving the services of the agency due to inability to pay.~~

~~4.2.1.5 Designated Agencies may apply for new designation for an additional population, provided they meet the requirements and there is not an existing DA in the geographic area for that population or the existing DA is not applying for re-designation.~~

~~5.3.1.5 Agencies shall follow all applicable state and federal regulations, including those described in the Medicaid provider enrollment agreement and the Provider Agreement.~~

~~4.2.1.6 Agencies that utilize third parties for service delivery (e.g. shared-living providers) shall be responsible for ensuring compliance with all relevant regulations and shall compensate those providers for... Each Designated agency Agency shall be evaluated for re-designation every four years.~~

~~4.2.1.7 The State Program Standing Committee (Section 6.0) for the relevant service system shall evaluate each application for initial or re-designation, and any relevant supplemental information.~~

~~The State Program Standing Committee shall submit a written recommendation to the Commissioner regarding initial or re-designation, and supporting documentation for this~~

~~4.2.1.8 recommendation.~~

~~The Commissioner(s) shall elicit public comment for a period no less than two weeks and/or hold a public hearing to obtain input from interested stakeholders public, and will seek input from the appropriate State Program Standing Committee(s).~~

~~4.2.1.9 An agency Agency not chosen for initial designation shall have the right to appeal the decision pursuant to 18 VSA 8911(b). ...~~

~~5.3.1.6~~

4.2.2 Requirements for Renewal of Agency Re-Designation

4.2.2.1 An Agency seeking a renewal of designation shall continue to meet the requirements established for initial designation, as well as the following requirements:

4.2.2.2 Agencies desiring re-designation shall submit a letter of intent to apply for re-designation to the Commissioner within no more than at least thirty (30) days after before of the Agency's receipt of the Commissioner's written notice letter. ~~current designation expiration date.~~

4.2.2.3 A formal application for re-designation shall be submitted by the agency Agency within at least sixty (60) days before the ~~current designation expiration date, no more than sixty (60) days after the Agency's receipt of the Commissioner's written notice. days of the expiration of the existing designation.~~

4.2.2.4 Departments shall review relevant information in determining whether re-designation is appropriate, including, but not limited to: Continuous Quality Improvement Plans; Local Community Services Plans, and Agency performance data.

4.2.3 If an agency has received accreditation certification from one or more state or national accreditation bodies, the Department(s) may substitute relevant accreditation review findings for related designation requirements.

4.2.4 The Commissioner(s) shall elicit public comment for a period no less than two weeks and/or hold a public hearing to obtain input from interested public, and will seek input from the appropriate State Program Standing Committee(s).

Catchment Area

The catchment area for each designated Agency shall be defined by the Commissioner.

A DA may appeal any change in the catchment area by writing to the Commissioner of DMH or DAIL, as appropriate.

Application

...

5.4 — Service Delivery Policies

5.4.14.3

5.4.2—Agencies shall comply with the requirements of included in the any contracts or agreements with the Vermont Agency of Human Services or of its departments, Medicaid Provider Enrollment Agreement and/or the DMH Provider Agreement, as appropriate.

4.3.1

The Agency shall submit a program plan and program budget to the Commissioner for review and approval.

4.3.2 An Agency shall not preclude anyone from receiving the services of the agency due to inability to pay, per 18 V.S.A. § 8910(c).

4.3.3 An Designated Agency shall ensure timely evaluation, identification, and provision of services for the individual, as defined in regulation, State System of Care Plan for Developmental Services, and in the DMH Mental Health Provider Manual for Mental Health Services.

4.3.3.1 A, incorporating Designated Agency shall not discriminate in the administration of programs, services, or activities or exclude any individual from participation in programs, services, or activities based on race, religion, color, national origin, genetic information, marital/familial status, sex, sexual orientation, gender identity, age, pregnancy status, place of birth, crime victim status, military, veteran status, disability, or any other protected status. A Designated Agency shall not preclude anyone from receiving services based on all aspects of the individual's diversity, including age, gender, ethnicity, culture, language, socio-economic circumstances, sexual orientation, and family environment, within its catchment area.

4.3.3.2 The inability of a Designated Agency to meet the needs of an individual shall not be a factor in any decision by the Designated Agency to refuse to serve the individual. A Designated Agency shall not refuse services to any individual based on based exclusively on presentation of needs. Inability to meet needs of individuals within the Designated Agency's catchment area must be addressed through the processes as defined in contracts and agreements with the Vermont Agency of Human Services. Program

4.3.4 The Designated agency Agency must shall ensure, within their its catchment area:

~~4.3.4.1 assure that a comprehensive, integrated, accessible and responsive array of services, staff, and supports is available within the designated geographical region to meet the service needs of eligible persons, within consistent with the guidelines of established service and budget priorities and allocations established by DDMHS; by:~~

~~5.4.2.1~~

~~4.3.4.2 Providing, and/or contracting for the provision of, the array of all required comprehensive services, as detailed in the State System of Care Plans for Developmental Services, for Child, Adolescent and Family Services, and for Adult Mental Health Services, in the DMH Mental Health Provider Manual for Mental Health Services.~~

~~5.4.2.1.1~~

~~4.3.4.3 The provision of Providing, and/or contracting for the provision of, crisis response and services for the designated populations within the designated geographical region is required by DDMHS policies and procedures;:~~

~~5.4.2.1.2~~

~~4.3.4.4 The provision of Providing, and/or contracting for the provision of, secure and safe services for client individuals Providing, and/or contracting for the provision of, secure and safe services for people who have been committed to care in the custody of the Commissioner; people who have been committed to the custody of the Commissioner~~

~~5.4.2.1.3~~

~~4.3.4.5 The provision in a timely manner of Providing, and/or contracting for the provision of, the array of required services needed to assist the Commissioner in any relevant legal proceedings, for commitment, including but not limited to transmission of client records and witness statements, in a timely manner;:~~

~~5.4.2.1.4~~

~~4.3.4.6 The provision of Providing, and/or contracting for the provision of, timely return to the community from inpatient or institutional placements;~~

~~5.4.2.1.5~~

~~4.3.4.7 The provision of Providing, and/or contracting for the provision of, timely action processing of on client individual applications for service; information and referral to community and government~~

resources, education about choices for service, and support options, including self/family-managed services where applicable;

5.4.2.1.6

~~Effective collaborating collaboration with related community/human service agencies providing support services in the region, including but not limited to: physical or dental health services, social services, housing and nutrition, substance use disorder services, education services, employment services, relevant state departments/agencies, local emergency departments, law enforcement, Designated and specialized service agencies Specialized Service Agencies, veteran's veteran and active military and veterans services, peer service organizations, therapeutic foster care services, including collaboration between Mental Health and Developmental Disabilities within the agency Agency, and higher levels of care providing support services in the region, including but not limited to:~~

4.3.4.8

~~5.4.3—The Agency shall facilitate all necessary referrals to external providers.~~

4.3.5

~~5.4.4—The Agency shall respond to referrals they receive in a timely manner.~~

4.3.6

~~5.4.5—The Agency shall continue care coordination for client individuals who are referred to a higher level of care, including participation with discharge planning for their expected timely return to the client's community of choice. Documentation for such care shall be maintained for the duration of the Agency's provider agreement, and if applicable, designation status.~~

4.3.7

~~4.3.8—The Agency shall ensure that working agreements contracts are in place with all service providers with whom the Agency contracts for services using DMH/DAIL funds. The contracts shall detail the roles and responsibilities between the two entities regarding client individual services and administrative functions (including information sharing and reporting, fiscal monitoring of client individual services, and service plan implementation).;~~

~~Working agreements are in place with:~~

~~5.4.5.1 All service providers and/or persons who self manage or share manage with whom the Designated Agency contracts for services using DDMHSDMH/DAIL funds. The contracts shall detail the roles and responsibilities between the two entities regarding consumer/individual services and administrative functions (including information sharing and reporting, fiscal monitoring of consumer/individual services, and service plan implementation); and~~

~~All service providers and/or persons who self manage or share manage with whom the Designated Agency contracts for services using DDMHSDMH/DAIL funds, detailing the roles and responsibilities between the two entities regarding consumer/individual services and administrative functions (including information sharing and reporting, fiscal monitoring of consumer/individual services, and service plan implementation);~~

4.3.9 The Agency shall provide necessary information and guidance to the Individual or family member regarding their responsibilities for shared management. Individuals and families shall be provided information regarding the option to self/family-manage services.

~~5.4.5.2 all service providers and/or persons who self manage with whom the Designated Agency contracts for services using DDMHS funds, detailing the roles and responsibilities between the two entities regarding consumer services and administrative functions (including information sharing and reporting, fiscal monitoring of consumer services, and service plan implementation)~~

~~5.4.5.2.1.1 Working agreements regarding the provision of services will clearly outline the responsibilities of contractors and/or persons who self managed to provide information to the DA and manage services in accordance with DDMHS guidelines.~~

4.4 Agency Organization and Administration

4.4.1 The Agency shall have administrative structures which encourage open communication among all stakeholders/entities (internal and external) and which support the development of mechanisms to identify and respond to organizational needs and concerns. This includes, but is not limited to, processes that support:

- 4.4.1.1 Consistent values, mission, vision and goals displayed by all Agency staff and policies.
- 4.4.1.2 Communication and collaboration among managers, staff and administration related to programmatic planning for both short-term and long-term effectiveness. This includes the sharing of organizational outcomes and performance improvement plans.
- 4.4.1.3 Timely and shared decision-making by program managers, supervisors and/or administration.
- 4.4.1.4 Positive staff morale and regular review of staff satisfaction and feedback.
- 4.4.1.5 Communication and collaboration with client individuals, families, other providers and community stakeholders/partner organizations.
- 4.4.1.6 Positive community presence and support of key stakeholders/community partner organizations.
- 4.4.1.7 The Agency shall have an organizational chart showing all reporting and supervisory relationships by position titles.

~~5.5~~ New Section Added – See Comment: **Culturally and Linguistically Appropriate Services (CLAS)**

4.5

Designated and Specialized Service Agencies shall align with the National Standards for Culturally and Linguistically Appropriate Services (CLAS)¹ in Health and Health Care. Agencies will provide effective, equitable, understandable, and quality services that are responsive to the diverse cultural/health beliefs and practices, preferred languages, health literacy, and other communication needs of individuals served.

<https://thinkculturalhealth.hhs.gov/clas/what-is-clas>

This will include, at a minimum:

- 4.5.1 Promoting CLAS through policy and practice
- 4.5.2 Recruitment and support of culturally and linguistically diverse staff and leadership
- 4.5.3 Training on CLAS for staff, leadership, and the Board

¹ Accessed January 2024: <https://thinkculturalhealth.hhs.gov/clas/what-is-clas>

- 4.5.4 Language access services, as described in the Accessibility section of this Rule (e)4.15)
- 4.5.5 Ongoing assessment of the organization's CLAS-related needs and integration into Continuous Improvement goals
- 4.5.6 Collect and maintain accurate and reliable demographic data to monitor and evaluate the impact of CLAS on health equity and outcomes to inform service delivery
- 4.5.7 Ensure information related to the grievance and appeal process is accessible to the individual es are culturally and linguistically appropriate
- 4.5.8 Ensuring culturally and linguistically appropriate intake and assessment of eligibility for services

5.5.1—Board of Directors (or equivalent)s

5.5.2—Composition

~~5.5.2.1 The board of a Designated Agency shall be representative of the demographic makeup of the area served by the agency.~~

~~5.5.2.2 A majority of the members of the board shall be composed of both individuals who are or were eligible to receive services from an agency because of their disability, and family members of an individual who is or was eligible to receive services because of his or her disability.~~

~~The board president shall survey board members on an annual basis and shall certify to the Commissioner that the composition of the board is comprised of a majority as required by this section. This composition of the board shall be confirmed by the organization's annual independent audit.~~

~~4.6 Annually, the board shall determine whether or not this disclosure shall be made available to the public on request.~~

~~5.5.2.2.1~~

~~5.5.2.2.2 This composition of the board shall be confirmed by the organization's annual independent audit.~~

~~5.5.2.2.3 Annually, the board shall determine whether or not this disclosure shall be made available to the public on request.~~

4.6.1 Board Duties

~~5.5.2.3~~

The Board of a Designated Agency shall:

4.6.1.1 Meet the requirements established by 18 V.S.A. § 8909:

4.6.1.1.1 - Must be representative of the demographic makeup of the area served.

4.6.1.1.2 At least 51% of the Board must be individuals with lived experience or family members of individuals with lived experience.

4.6.1.1.3 The Board will survey members annually to ensure the requirement is met.

~~5.5.2.3.1 The board shall have overall responsibility and control of the planning and operation of the community mental health agency.~~

~~5.5.2.3.2 The board shall direct the development of the local community services plan consistent with the requirements outlined in [this Rule/section X].~~

4.6.1.2 Be responsible to the Department(s) for the application and implementation of agency established policies related to DMH/DAIL funding.

~~The board shall appoint an executive director (or equivalent) (or responsible person) who shall be responsible to the Board for all Agency activities and for the application and implementation of Agency established policies.~~

4.6.1.2.1

4.6.1.3 Aligning with 3 V.S.A. § 1222, Board members will be aware of potential conflicts of interest, and disclose the conflict, recuse themselves, and/or discuss with the Board as relevant. This is especially in cases of:

4.6.1.3.1 Executive Director (or equivalent) hiring, review, and/or firing

4.6.1.3.2 New board member selection

4.6.1.4 Determine and promote the mission of the agency.

4.6.1.5 Assess community needs and resources and provide recommendations to agencyAgency for how to address those identified need-bridge gaps.

4.6.1.6 Review agencyAgency coordination with other service systems and agencies within the geographic area.

4.6.1.7 Review, and provide recommendations for-as appropriate, the Continuous Quality Improvement Plan for each DMH/DAIL population served by the agencyAgency (see Section 4.16).

4.6.1.8 Review the service capacity in the geographical area to meet the needs of eligible service recipients, within the guidelines established by, and the resources available from, DMH/DAIL.

4.6.1.9 Oversee that policies and services are consistent with the mission and outcomes of the State of Vermont, the Agency of Human Services, DMH/DAIL, and the needs of clientindividuals and families receiving services.

~~Recommend or approveAppoint an executive director who shall be responsible to the board for all agencyAgency activities and for the application and implementation of agencyAgency established policies.~~

4.6.1.10 Review new agencyAgency policy and significant policy updates.

4.6.1.11 Review and approve the agencyAgency budget and monitor agencyAgency financial status and staff compensation rates.

4.6.1.12 Oversee service quality, including the review of aggregate clientindividual satisfaction information, and aggregate information on clientindividual grievances and individual service and appeals.

4.6.1.13 Assure that the agencyAgency maintains a technological infrastructure to conduct business effectively with external entities, including DMH/DAIL and other state and local service agencies and systems.

4.6.1.14 Maintain confidentiality regarding the information it receives during its deliberations on agencyAgency staff and clientindividuals.

4.6.1.15 ~~Ensure that Agency Inform the agency~~ Agency when staff training is conducted in an effective and timely manner. ~~needed to fulfill their duties to the Agency. The Agency will provide requested trainings in a timely way~~

- ~~5.5.2.3.3~~ Be responsible to the Department for the application and implementation of agency established policies related to DDMHS funding.
 - ~~5.5.2.3.4~~ Determine and promote the mission of the agency
 - ~~5.5.2.3.5~~ Assess community needs and resources
 - ~~5.5.2.3.6~~ Assure agency coordination with other service systems and agencies within the geographic area
 - ~~5.5.2.3.7~~ Develop and implement the Local System of Care Plan for each DDMHS population served by the agency (see Section 4.16)
 - ~~5.5.2.3.8~~ Assure the service capacity in the geographical area to meet the needs of eligible service recipients, within the guidelines established by, and the resources available from, DDMHS
 - ~~5.5.2.3.9~~ Assure that policies and services are consistent with the mission and outcomes of the State of Vermont, the Agency of Human Services, DDMHS, and the needs of consumers and families receiving services
 - ~~5.5.2.3.10~~ Set agency policy
 - ~~5.5.2.3.11~~ Review and approve the agency budget and monitor agency financial status and staff compensation rates
 - ~~5.5.2.3.12~~ Oversee utilization management and service quality, including the review of consumer satisfaction information, and information on consumer grievances and appeals.
 - ~~5.5.2.3.13~~ Assure that the agency maintains a technological infrastructure to conduct business effectively with external entities, including DDMHS and other state and local service agencies and systems.
 - ~~5.5.2.3.14~~ Hire, evaluate the performance of, and, if appropriate, dismiss the executive director.
 - ~~5.5.2.3.15~~ Maintain confidentiality regarding the information it receives during its deliberations on agency staff and consumers.
- ~~5.5.2.4~~ Executive Director
- ~~5.5.2.4.1~~ The board shall appoint an executive director who shall be responsible to the board for all agency activities and for the application and implementation of agency established policies.

5.5.2.54.6.2 Board By-Laws

4.6.2.1 The board shall adopt bylaws that include, but are not limited to:

5.5.2.6

4.6.2.1.1 Clearly written responsibilities and authorities of the Executive Director (or equivalent).

~~5.5.2.6.1~~

~~4.6.2.1.2~~ The powers and duties of the Board, its standing and special committees, and the responsibilities of individuals serving as board members, including attendance requirements.

~~5.5.2.6.2~~

~~4.6.2.1.3~~ The Department requirement that Board meetings be open to the public, except when the Board determines the need to convene in Executive Session.

~~5.5.2.6.3~~

~~5.5.2.6.4~~ A statement of its policies and procedures for disposal of assets and debts and obligations in the event of dissolution of the ~~agency~~ Agency, including the return to ~~DDMHSDMH/DAIL~~ of any assets and property directly obtained with ~~DDMHSDMH/DAIL~~ funds, as allowed by law. When a ~~D~~esignated ~~agency~~ Agency merges with another organization, the ~~agency~~ Agency shall obtain written authorization from ~~DDMHSDMH/DAIL~~ approving the transfer or requiring return of the assets and property purchased directly with ~~DDMHSDMH/DAIL~~ funds.

~~4.6.2.1.4~~

~~5.5.2.7 Local Program Standing Committee~~

~~5.5.2.7.1~~ The board shall establish a Local Program Standing Committee for each population served.

~~5.5.2.7.2 Structure~~

~~5.5.2.7.2.1~~ Each Local Program Standing Committee shall be comprised, at a minimum, of five members.

~~5.5.2.7.2.2~~ A majority of the membership of the Local Program Standing Committee shall be disclosed consumer client individuals and family members.

~~5.5.2.7.2.3~~ In Developmental Services, 25% of the Local Standing Committee must be consumer client individuals.

~~5.5.2.7.2.4~~ At least one member of each Local Program Standing Committee shall serve as a voting member of the Agency Board of Directors.

~~5.5.2.7.2.5~~ The Local Program Standing Committee may be comprised totally of ~~agency~~ Agency board members if criterion 4.2.5.2. is met.

~~5.5.2.7.2.6~~ The Agency Board of Directors shall determine its policy for reimbursing committee members for expenses that, if not reimbursed, would prohibit the member from attending committee meetings.

~~5.5.2.7.3~~ Committee members shall be knowledgeable about:

~~5.5.2.7.3.1~~ Regulatory requirements or mandates that significantly influence resource allocation decisions.

~~5.5.2.7.3.2~~ Other community and ~~agency~~ Agency pressures on resources.

~~5.5.2.7.3.3~~ Outcomes related to system of care plan priorities and general resource allocations.

~~5.5.2.7.3.4~~ New initiatives, demonstration projects.

~~5.5.2.7.4~~ The Local Program Standing Committee responsibilities shall include:

~~5.5.2.7.4.1~~ *Hiring of Key Management:* The Executive Director shall seek advice from the Committee in the appointment of a new program director or the person responsible for program services, and the program services director and/or the Executive Director shall seek feedback from the Committee no less than annually regarding program management or operations.

~~5.5.2.7.4.2~~ *Evaluation of Quality:* The Committee shall review information and comment on the quality and responsiveness of services offered in the geographic area.

~~5.5.2.7.4.3 — Local System of Care Plan: The Committee shall be involved in the development of a local system of care plan for the DDMHSDMH/DAIL population that it represents, and its updates. In doing so, it will advise the Agency in establishing general priorities for resource allocation consistent with the Local System of Care Plan.~~

~~5.5.2.7.4.4 — Agency Policy: The Committee shall review and recommend policy that pertains to or significantly influences services for the population they represent, and shall set policy when delegated this authority by the Board of Directors.~~

~~5.5.2.7.4.5 — Complaints, Grievance and Appeals Resolution: The Committee shall review and comment on information concerning the frequency, type and resolution of complaints about services for the population they represent, in order to make recommendations on how Agency operations could be improved.~~

~~Agency Organization and Administration~~

~~The agency shall have administrative structures which encourage open communication among all stakeholders (internal and external) and which support the development of mechanisms to identify and respond to organizational needs and concerns. This includes, but is not limited to, processes that support:~~

~~— Consistent values, mission, vision and goals displayed by all Agency staff and policies.~~

~~— Communication and collaboration among managers, staff and administration related to programmatic planning for both short-term and long-term effectiveness. This includes the sharing of organizational outcomes and performance improvement plans.~~

~~Timely and shared decision-making by program managers, supervisors and/or administration.~~

~~Positive staff morale and the regular review of staff satisfaction and feedback.~~

~~Communication and collaboration with client individuals, families, other providers and community stakeholders.~~

~~Positive community presence and support of key stakeholders.~~

~~The agency shall have an organizational chart showing all reporting and supervisory relationships by position titles.~~

5.5.3 ~~Consumer/Client/Individual and Family Participation~~

~~The Agency shall meaningfully involve client individuals and families in Agency and program design and document how this is achieved.~~

~~Recommendations to the Agency on initiatives or proposals which may include: new policies or procedures, aggregate grievance and appeal data, or identified themes across programs.~~

4.7 Local Community Services Plan Program Standing Committee

5.5.3.1 The agency must demonstrate recognition of the importance of consumer and family involvement and input in agency and program design.

5.5.3.2 The agency must obtain and monitor consumer and family satisfaction, keep written records of all of its monitoring efforts, and document use of this information through quality improvement activities.

5.5.3.3 The agency must document consumer/family inclusion in program design.

5.5.3.4 The agency must document inclusion of consumers/family members in reviews of, trends in types of services delivered, requests for services, monitoring of the quality of services, and evaluations of agency and program effectiveness.

5.5.3.4.1 The agency shall involve consumers and families in the design, delivery and evaluation of training

5.6 — Organizational Service Delivery Plans

4.7.1 The Agency shall establish a Local Community Services Plan Standing Committee Program Standing Committee for each population served by the Agency. to assist with the development of the Local Community Services Plan.

4.7.2 Standing Committee Structure

4.7.2.1 Each Local Community Program Services Standing Committee shall be comprised of at least five members, a majority of whom shall be disclosed client individuals with direct lived experience and/or family members.

4.7.2.1.1 In Developmental Disabilities Services, at least two three members must shall be people with direct lived experience receiving services.

4.7.2.1.2 In Mental Health Services:—e

4.7.2.1.2.1 Committees across the lifespan must shall include—A at least two members who shall have direct lived experience receiving adult mental health services; and

4.7.2.1.2.2 a At least two members who shall may be family or have direct lived experience receiving child, youth, and family services, or be family members of an individual individual with that lived experience.

4.7.2.2 At least one member of each Local Program Standing Committee shall serve as a voting member of the Agency Board of Directors (or equivalent).

4.7.2.3 The Local Program Standing Committee may be comprised totally of agency board members if criterion 4.7.68.2.1 is met.

4.7.2.4 Committee members shall have the knowledge and Agencies shall provide the training necessary to be active participants in the development of the Local Community Services Plan.

4.7.2.5 The Agency Board of Directors (or equivalent) shall determine its policy for reimbursing committee members for expenses that, if not reimbursed, would prohibit the member from attending committee meetings.

4.7.3 Duties and Responsibilities

4.7.3.1 Local Community Services Plan Program Standing Committee responsibilities shall include:

4.7.3.1.1 Providing recommendations to the Agency's leadership regarding the appointment of a new program director or the person responsible for program services.

4.7.3.1.2 Providing feedback about Agency operations, and management, and quality to the program services director at least and/or the Executive Director at least annually, including the review of:-

4.7.3.1.2.1 Aggregate results of staff, client individual, and, if available, community partner organization satisfaction surveys;

4.7.3.1.2.2 Annual Agency or program training plan, as described in 4.12, which shall be updated annually for DDS services and at least every three years for mental health services and reviewed at least annually for DDS;:

4.7.3.1.2.3 Aggregate results from DMH/DAIL quality processes, and any corrective actions planned or completed;

4.7.3.1.2.4 Agency Continuous Quality Improvement plans and corresponding results; and

4.7.3.1.2.5 Aggregate complaint, grievance, and appeal data and agency responses to any themes identified.

4.7.3.1.3 Engaging with the Agency Executive Director (or equivalent) at least annually.

Reviewing and recommending policies regarding the Agency's service delivery quality and client

responsiveness. This shall include a review of complaints and Agency responses to those complaints.

4.7.3.1.4 Assisting with the development of the Agency's Local Community Services Plan, including establishing priorities for resource allocation, and the schedule for the anticipated provision of new or additional services.

4.8 Continuous Quality Improvement

4.8.1 The Agency shall develop, implement, and maintain an effective, ongoing, Agency-wide data-driven Continuous Quality Improvement (CQI) plan, that is updated/reviewed annually and updated at least every four years. The CQI plan shall:

4.8.1.1 Reflect the complexity of its organization, and services, and population served, and involve all Agency services (including those services furnished under contract or arrangement with a third-party);

4.8.1.2 Prioritize indicators related to:

4.8.1.2.1 For mental health populations:
Improved mental health outcomes; and/or
prioritize indicator

4.8.1.2.2 For developmental services populations:
related to Community inclusion; independent living; health and safety; trauma evaluation, prevention and mitigation; community inclusion and independent living in Developmental Services.

4.8.1.3 Prescribe actions to demonstrate clinical care and operational improvements;

4.8.1.4 Include the perspectives of client individuals and families and a mechanism for input by community partner organizations, as appropriate.

4.8.2 The Agency shall maintain documentation of its quality assessment and performance improvement program and provide such documentation to the Department(s) upon request.

~~There shall be at least one measurable outcome for each goal of the COI plan. There shall be at least one measurable outcome for each project. There shall be at least one measurable outcome for each goal in the COI plan.~~

4.8.2.1

4.8.2.2 There shall be at least one responsible team, program or individual or staff role identified for each goal.

4.8.3 An Agency shall respond in a timely and effective manner to any recommendationsCorrective Action Plan (or equivalent)(s) made toapproved by the Department(s).

4.9 Required Event Reporting

4.9.1 ClientIndividual Complaints, Grievances, and ClientIndividual Service Appeals

4.9.1.1 The Agency shall have policies and procedures to address clientindividual complaints, grievances, and appeals that are consistent with requirements established by the Agency of Human Services, and the Department of Vermont Health Access (DVHA).

4.9.1.1 All grievances and individual service appeals shall be submitted to the Department of Vermont Health Access Warehouse within 14 calendar days of receiptreceipt

5.6.1 Complaints, grievances, and clientindividual service appeals shall be reviewed regularly, including in aggregate, to identify and address any trends. At a minimum reviewers will include:

4.9.1.2

4.9.1.2.1 The Board of Directors (or equivalent), per 4.5.1.114.6.1.12

4.9.1.2.2 Local Program Standing Committees, per 4.76.3.1.2.5 (Eva to input)

4.9.1.2.3 State Program Standing Committees, per 6.2.1.6-8

4.9.1.2.4 The Department of Mental Health and Department of Disabilities, Ageing and Independent Living

4.9.2 Critical Incident Reports

4.9.2.1 Agencies will follow the requirements set forth by

Departments:

4.9.2.1.1 For mental health services, the Critical Incident Reporting Requirements

4.9.2.1.2 For developmental disability/DDS intellectual/developmental disabilities services, the DAIL Developmental Disability Service Division and Adult Services Division Critical Incident Reporting Guidelines

4.10 Data Policies

4.10.1 The Agency shall have a technological infrastructure that enables cost-effective information collection, analysis, and telecommunication functions sufficient to:

4.10.1.1 Submit all required data in the format and timeline specified by DMH/DAIL;

4.10.1.2 Monitor and report on service costs, accessibility, service provision, case mix, quality assurance and improvement, and outcome activities as required by this rule and the Provider Agreement; and consistent with the DMH Mental Health Provider Manual, the Medicaid Manual for Developmental Disabilities Services and DDSD Encounter Data Submission Guidance for Home and Community-Based Services as appropriate; and

4.10.1.3 Support high quality and responsive service provision with the capacity to monitor the services delivered by contracted service providers, and/or persons who share-manage, consistent with this rule, the Provider Agreement, and the DMH Mental Health Provider Manual, the Medicaid Manual for Developmental Disabilities Services, and DDSD Encounter Data Submission Guidance for Home and Community-Based Services, as appropriate.

4.10.2 The Agency will remain compliant with national standards such as the United States Core Data for Interoperability (USCDI) for data transmission to the State of Vermont. The Agency will support the State of Vermont's efforts in promoting interoperability by maintaining

a USCDI baseline and continue to raise the baseline as the standard evolves.

5.6.24.11 **Local Community Services Plan**

4.11.1 Each ~~D~~esignated community mental health and developmental disability ~~agency~~Agency shall determine the need for community mental health and developmental disability services within the area served by the ~~agency~~Agency and shall thereafter prepare a local community services plan which describes the methods by which the ~~agency~~Agency will provide those services.

~~5.6.2.14.11.1.1~~ 4.11.1.1 Community service plans should include developmental care core services referenced in DAIL's System of Care Plan; the following core mental health services: crisis services, outpatient mental health and substance use services, person- and family- centered treatment planning, community-based mental health care for veterans, targeted care management, psychiatric rehabilitation services, and screening, diagnosis, and risk assessment and other services identified as necessary for the local community. If a core service is not included in the local community services plan, the Agency shall identify the reason for the omission in their community services plan.

~~5.6.2.14.11.1.2~~ 4.11.1.2 The plan shall include a schedule for the anticipated provision of new or additional services and shall specify the resources which are needed by and available to the ~~agency~~Agency to implement the plan.

~~5.6.2.14.11.1.3~~ 4.11.1.3 The community services plan shall be reviewed annually.

4.11.2 The board shall consult with the following groups to determine the priorities of needsneeds for community mental health and developmental disability services; and the pro:

4.11.2.1 the Commissioners,

~~4.11.2.2 with consumer client individuals receiving services and their families and/or guardians for each population served and families.~~

~~4.11.2.3 Local Program Standing Committees,~~

~~4.11.2.4 Specialized Services Agencies,~~

~~with other organizations representing persons receiving services, including and~~

~~5-6.2.24.11.2.5 persons with developmental disabilities, and children and adolescents with a severe emotional disturbance, and with other governmental or private agencies that provide community services to the people served by the agency. Agency to determine the needs of the community for mental health and developmental disability services, and the priority need for service.~~

~~4.11.3 The plan shall encourage utilization of existing agencies, professional personnel, and public funds at both State and local levels in order to improve the effectiveness of mental health and developmental disability services and to prevent unnecessary duplication of expenditures.~~

4.12 Personnel Policies

~~4.12.1 The Agency shall have written personnel policies and procedures that promote high quality services. practices, policies and procedures that promote high quality services, and evidence showing that they personnel adhere to the stated practices.~~

~~4.12.1.1 The Agency shall employ qualified personnel who are assigned duties and responsibilities that are appropriate to their level of training, education, and experience, and are supervised accordingly.~~

~~4.12.1.2 The Agency shall have written practices policies and procedures for staff evaluation that include regular supervisory review and shall demonstrate that these practices policies and procedures are followed.~~

~~4.12.1.3 The Agency shall have a position description for each employee that clearly delineates the functions for which the employee will be held accountable and to whom they report. The position description shall also describe the education and~~

experience required for the position.

4.12.1.4 The Agency shall have written policies prohibiting discrimination as described in 4.3.3.1 based on age, sex, race, sexual orientation, country of origin, disability or other basis of discrimination.

4.12.2 Staff Training

4.12.2.1 The Agency shall develop a training plan for all clinically focused staff and sub-contractors. and update this plan at least every three years. The training plan may have different expectations for different staff types roles. The plan shall be updated annually for developmental disability services and at least every three years for mental health services. Training shall address:

4.12.2.1.1 Cultural responsiveness including considerations for veterans with consideration for groups identified in 4.3.3.1;

4.12.2.1.2 Person-centered and family-centered, recovery-oriented, evidence-based and trauma-informed care;

4.12.2.1.3 Primary care/co-occurring mental health/substance use integration;

4.12.2.1.4 Non-physical intervention and de-escalation techniques;

4.12.2.1.5 Risk assessment, suicide prevention and suicide response; and

4.12.2.1.6 The roles of families and peers.

4.12.2.1.7 The Continuity of Services Plan – see section 4.16

4.12.2.2 The Agency shall provide orientation training to new staff and document this training.

4.12.2.3 The agency shall include client individuals and/or families in the design, delivery, and evaluation of training for staff, as appropriate

4.12.2.4 Agencies shall implement training for staff consistent with the requirements included in the DDS Rule Health Care Administrative

Rule 7.100 titled “Disability Services-Developmental Disabilities “ and/or those listed in the DMH Mental Health Provider Manual, as appropriate.

4.13 Client Individual Confidentiality Policies

4.13.1 The Agency shall have written policies and practices/procedures that protect the confidentiality of client individual information, consistent with applicable state and federal regulations, including but not limited to:

4.13.1.1 Language in staff and contracted service providers' contracts that explicitly states expectations about the confidentiality of service or care plan information.

4.13.1.2 Written policies and procedures for assuring informed consent.

4.13.1.3 Written policies and procedures that safeguard medical records and other client individual information and adhere to all applicable confidentiality policies.

~~5.6.2.3~~

~~5.6.2.4 The determination of needs must be based on information, including satisfaction with agency services and operations, obtained from consumer/clients/individuals, their families and guardians, and other relevant private and governmental organizations in the geographic area.~~

~~5.6.2.5 The plan must include the need for services and training, including service and training gaps; resources available within the geographic area to meet the need; and the anticipated provision or need for new or additional services or training to meet the identified gaps.~~

~~5.6.2.6 **Continuous** The agency must facilitate the involvement of people who live in the geographic area in the development of the Local System of Care Plan in accordance with DDMH/DAHL policy and procedures.~~

~~**Quality Improvement Plan**~~

~~The Agency shall develop, implement, and maintain an effective, ongoing, Agency wide data driven Continuous Quality Improvement (CQI) plan, that is updated at least every four years/annually. The CQI plan shall:~~

~~Reflect the complexity of its organization and services, and involve all Agency services (including those services furnished under contract or arrangement with a third party);~~

~~Prioritize indicators related to improved mental health outcomes; and/or prioritize indicators related to trauma evaluation, prevention and mitigation; community inclusion and independent living in Developmental Services;~~

~~Prescribe actions to demonstrate clinical care and operational improvements;~~

~~Prioritize/include the perspectives of client individuals and families and include a mechanism for input by community partner organizations, as appropriate.~~

~~The Agency shall maintain documentation of its quality assessment and performance improvement program and provide such documentation to the Department(s) upon request.~~

~~There shall be at least one measurable outcome for each project.~~

~~There shall be at least one responsible individual or staff role identified for each project.~~

~~An Agency shall respond in a timely and effective manner to recommendations made the Department(s).~~

4.14 Client Individual Rights

~~4.14.1 The Agency shall have a written policy ensuring the rights of all client individuals are observed consistent with state and federal law, including 18 V.S.A. § 8728, as well as the State System of Care Plan for DAIL, and the DMH Mental Health Provider Manual, and those identified in this rule.~~

~~Individual's Agency's must adhere to state and federal regulations/regulations that ensure individuals are afforded basic/afforded their the basic rights, which including but limited to:~~

~~The individuals have/has the right to rights determined live integrated in the community.;~~

~~The individual has the right to choose from~~

~~options/options regarding living arrangement/model.~~

~~The individual has the right, to be treated with respect and dignity by all staff and volunteers of the Agency.~~

~~The individual has the right to , have choice about services and their service provider., by e Add nod to HCBS rights.~~

4.14.2 Additionally, the Agen-ey shall ensure that ~~elient~~individuals are afforded the rights listed below.

4.14.3 General Rights

4.14.3.1 ~~The elient~~individual has the right to be informed of their rights at intake and/or initial evaluation, as evidenced by the ~~elient~~individual (or representative's) signature. Exceptions may be made for no signature when thoroughly documented with a clinical rationale:-

4.14.3.2 The right to be treated with dignity and respect by all staff;

4.14.3.3 The right to participate in decision making regarding services, treatment plans, ongoing supports, and practices; and

4.14.3.4 The right to information that is needed to plan appropriate service and supports.

4.14.4 Privacy Rights

4.14.4.1 ~~Client~~Individuals shall have the right to privacy consistent with applicable law, including HIPAA (Pub. L. No. 104-191, 110 Stat. 1936 (1996)), 42 CFR Part 2, and patient privacy requirements specific to the care of minors required by 18 V.S.A. §7103.

4.14.4.2 ~~Client~~Individuals have the right to be informed of the limitations of privacy and confidentiality.

4.14.5 Access to Services

4.14.5.1 ~~Client~~Individuals have the right to receive information about eligibility criteria, practitioner qualifications, practice guidelines, and available services and programs regardless of whether they are offered by the Agency.

~~5.6.2.7 Client~~ Individuals have the right to receive treatment and services in the most integrated, least restrictive setting appropriate to their needs, in an appropriate and least restrictive environment.

4.14.5.2

~~4.14.5.3 Client~~ Individuals have the right to a comprehensive service plan that incorporates coordination with other relevant Agencies/systems if desired.

4.14.6 Personal Liberty and Autonomy

4.14.6.1 Individuals or their guardian have the right to name who their natural supports are, and to name those natural supports they do not want from participating in their supports.

4.14.6.2 Client Individuals or their guardian have the right to create a Advance Directive(s) and have support to create it if desired.

4.14.6.3 Client Individuals or their guardian have the right to refuse or terminate services, providers, and/or medication, except where required by court order.

4.14.6.4 Client Individuals or their guardian have the right to voice complaints, grieve treatment and services, and/or appeal decisions made by an Agency without negative consequences.

4.14.6.5 Client Individuals or their guardian have the right to all legal protection and due process for status as an outpatient and inpatient ~~client~~ individual, both voluntary and involuntary, as defined under Vermont law.

4.15 Accessibility

4.15.1 The Agency shall conduct its business and ensure service delivery in a way that complies with the Americans with Disabilities Act (ADA) and meets the following requirements:

4.15.1.1.1 Accessible parking, entrances, private meeting space and bathrooms shall be available in each building that is open to

the public and/or used for the provision of services. This does not apply to private homes or apartments.

4.15.1.2 The Agency shall provide, or arrange, for adequate, accessible transportation for client individuals who could not otherwise easily reach its services. The inclusion of transportation needs to access necessary supports and services must be included in the development of an individual's service plan.

4.15.1.3 Information and communication shall be provided to client individuals and/or their authorized representatives in a format that is accessible to them understandable to the individual applying for or accessing services.

4.15.1.4 Written policies and procedures shall be developed that provide for other accommodations, as needed, and as determined by the needs of the individual.

5.6.2.8 The plan must be reviewed annually and updated with new information if appropriate. The plan must be fully revised every three years.

5.6.3.16 **Continuity of Services Plan**

4.16.1 Each Designated Agency shall have a written plan for continuity of care in the event that the Agency cannot accept an individual into one or more services, no longer provide services to an client individual due to: because of of the Agency's voluntary or involuntary closure; a disaster, unanticipated service interruptions; the Agency is unable accept new client individuals due to high demand; relocation of an client individual; or transfer of an client individual to another provider. The plan shall account for:

5.6.3.1

4.16.1.1 Orderly and timely transfer of client individuals to another [service provider/DA?], if available, other service providers, or referral.

5.6.3.1.1

4.16.1.2 Notification to client individuals, staff, and community partner organizations of any upcoming closure and to reassure them of transition plans for continuity of care.

5.6.3.1.2

4.16.1.3 Notification to the ~~Department~~Department(s) no fewer than 90 days prior to closure to discuss the rationale for closure and plans for continuity of care.

~~5.6.3.1.3~~

4.16.1.4 Transfer of ~~client~~individual records to the appropriate service provider.

~~5.6.3.1.4~~

4.16.1.5 Ensuring that ~~client~~individual records are secured and maintained in accordance with State and Federal regulations.

4.16.1.6 To the extent feasible, identify alternative locations and methods to sustain service delivery and access to medications during emergencies and disasters.

~~5.6.3.1.5~~

4.16.1.7 At a minimum, the Designated Agency shall review ~~their~~its Continuity of Care Plan annually and update it if needed ~~and shall have documentation that the review and/or updating has occurred.~~

~~5.6.3.1.6~~

4.16.1.8 The ~~Department~~Department(s) may request to review a Designated Agency's Continuity of Care Plan at any time. The ~~Designated Agency shall respond to all verbal and written requests on the timeline(s) provided by the~~ Department(s).

4.17 Client Individual Records

4.17.1 The Agency will document services in compliance with federal and state guidelines and practice standards including the Mental Health Provider Manual and the Vermont Medicaid Manual for Developmental Disabilities Services.

4.17.2 ~~Client~~Individual records shall reflect the delivery of clinical care, specifically that it is strengths-based, person-centered and family-centered (for youth, as appropriate), recovery-oriented, evidence-based, and trauma-informed.

4.17.3 Agencies shall have internal auditing practices in place for a rotating, representative subset of clinical records.

4.17.4 DAIL/DMH shall maintain chartfile review criteria with agencies pertinent to the programs being monitored.

5.6.3.1-74.17.4.1 In accordance with the 21st Century Cures Act, client individuals shall be given immediate access to their health information in the electronic health record without charge, if requested.

~~5.6.4 Personnel Policies~~

~~The agencyAgency shall have written personnel practices, policies and procedures that promote high quality services, and evidence showing that they adhere to their stated practice.~~

~~5.6.4.1~~

~~The agencyAgency shall employ qualified personnel who are assigned duties and responsibilities that are appropriate to their level of training, education, and experience.~~

~~5.6.4.1.1~~

~~The agencyAgency shall have written practices for staff evaluation that include regular supervisory review and must demonstrate that these practices are followed.~~

~~5.6.4.1.2~~

~~The agencyAgency shall have a position description for each employee that clearly delineates the functions for which the employee will be held accountable and to whom they report. The position description shall also describe the education and experience required for the position.~~

~~5.6.4.1.3~~

~~5.6.4.1.4 The agencyAgency shall have written policies prohibiting discrimination based on age, sex, race, sexual orientation, country of origin, disability or other basis of discrimination.~~

~~Staff Training~~

~~5.6.5~~

~~The agencyAgency shall develop a training plan for all clinically focused staff and sub-contractors and update this plan at least every three years. Training must address, as relevant:~~

~~Cultural responsiveness including considerations for veterans;~~

~~Person centered and family centered, recovery oriented, evidence based and trauma informed care;~~

~~Primary care/co-occurring mental health/substance use integration;~~

~~Non-physical intervention and de-escalation techniques;~~

~~Risk assessment, suicide prevention and suicide response; and~~

~~The roles of families and peers.~~

~~5.6.5.1 The agency shall provide orientation training to new staff. The agency must identify training needs for staff, consumer and families, boards and committees, and demonstrate commitment to address these needs, in accordance with DDMHS policies and procedures, including but not limited to:~~

~~5.6.5.2 A regular assessment of board, staff, and consumers and family training needs.~~

~~5.6.5.2.1 An annual agency training plan~~

~~A new staff orientation training or training process and document this training evidence that it is used~~

~~The agency shall include client individuals and/or families in the design, delivery, and evaluation of training for staff, as appropriate~~

~~Agencies Shall Agencies implement training for staff consistent with the requirements included in the DDS Rule and/or those listed in the DMH Provider Manual, as appropriate.~~

~~5.6.5.2.2~~

~~5.6.64.18~~ **Program Budget and Fiscal Policies**

~~5.6.6.1 An Agency shall comply with the requirements of 18 V.S.A. § 8910. provide prepare a budget plan.~~

~~5.6.6.2 The budget plan must indicate cost per unit of service and anticipated fees for services and must represent a balanced plan of anticipated receipts and expenditures.~~

~~5.6.7 A policy statement regarding fees, instructions for payment of fees, and fee collection procedures to be used by the agency. Agency shall be prepared and updated annually.~~

4.18.1

~~5.6.8~~ Fiscal Policies

~~5.6.9~~ The ~~agency~~ Agency ~~must~~ shall have fiscal management practices that demonstrate the following:⁂

4.18.2

~~5.6.9.1~~ Fiscal solvency, as demonstrated by the ability to meet payroll and pay bills in a timely fashion;

4.18.2.1

~~5.6.9.2~~ Medicaid certification;

4.18.2.2

4.18.2.3 A published fee schedule, for DDS services, ~~this requirement goes into effect July 1, 2025;~~

~~5.6.9.2.1~~

~~5.6.9.3~~ A policy statement regarding fees, instructions for payment of fees, and fee collection procedures to be used by the agency shall be prepared and updated annually.

4.18.2.4 The ~~agency~~ Agency shall make every reasonable effort to collect all fees from individuals and third-party payors;⁂

~~5.6.9.4~~

4.18.2.5 Reliable monitoring of billing and expenditures versus revenues by ~~consumer~~ client/individual, by staff, by service, by program, and by service provider, in accordance with generally accepted accounting principles (GAAP);⁂

~~5.6.9.5~~

4.18.2.6 Accounting practices in accordance with ~~DDMHSDMH/DAIL~~ standards and procedures including, at a minimum, the composite balance sheet, and the composite statement and program statements of revenue and expense;⁂

~~5.6.9.6~~

4.18.2.7 An annual financial and compliance audit performed by an independent public accountant in accordance with the department's Audit Guide and all applicable State and Federal laws, regulations, policies and procedures;

~~5.6.9.7~~

4.18.2.8 Adequate fire, personal, professional and general liability, board/officer insurance coverage within

guidelines set by ~~DDMHS~~DMH/DAIL;

~~5.6.9.8~~

~~4.18.2.9~~ Efficient administrative practices, including, but not limited to, fiscal, policy, and procedures manuals;

~~5.6.9.9~~

~~4.18.2.10~~ An ~~agencies~~ Agency may receive funds from sources other than the ~~DDMHS~~DMH/DAIL to carry out its duties for the population(s) whom they are designated to serve by ~~DDMHS~~DMH/DAIL. Funds received from such sources ~~must~~shall be identified to ~~DDMHS~~DMH/DAIL; and

~~5.6.9.10~~

~~5.6.9.11~~ 4.18.2.11 An ~~Agencies~~ Agency ~~must~~shall identify and report all related-party transactions within ~~their~~its organization to the Commissioner, including the nature of the relationship and transaction, and the dollar amounts involved.

~~5.6.9.11.1~~

Data Policies

~~The ~~agency~~Agency shall have a technological infrastructure that enables cost effective information collection, analysis, and telecommunication functions sufficient to:~~

~~Submit all required data in the format and timeline specified by DMH/DAIL;~~

~~Monitor and report on service costs, accessibility, service provision, case mix, quality assurance and improvement, and outcome activities as required by this rule and the Provider Agreement; and consistent with the DMH Provider Manual, as appropriate; and;~~

~~Support high quality and responsive service provision with the capacity to monitor the services delivered by contracted service providers, and/or persons who self manage, consistent as this rule with this rule, and the Provider Agreement, and consistent with the DMH Provider Manual, as appropriate.~~

Data Sharing

~~DAs and SSAs~~Agencies shall provide the following data to the DepartmentDepartment(s) [at least annually and anytime requested by the DepartmentDepartment(s)]:

...

4.19 Information Technology (IT) Policies

4.19.1 The agency must shall have a technological infrastructure that enables cost effective information collection, analysis, and telecommunication functions required to:

4.19.1.1 Protect confidentiality of client individuals whose data are transferred to the Ddepartment(s) and/or other entities in adherence with-, as indicated:

4.19.1.1.1 the Health Insurance Portability and Accountability Act (HIPAA) of the Agency of Human Services confidentiality guidelines;

4.19.1.1.2 the Family Educational Rights and Privacy Act (FERPA)

4.19.1.1.3 42 CFR Part 2

4.19.1.2 —Ensure that data is securely kept, in alignment compliance with Agency of Human Services (AHS) policy²; and

4.19.1.3 Ensure cybersecurity through alignment with Agency of Digital Services (ADS) policy security standards. For more information, please visit: <https://digitalservices.vermont.gov/cybersecurity/cybersecuritystandards-and-directives>

~~5.6.10~~

~~5.6.10.1 — The agency must have a technological infrastructure that enables cost effective information collection, analysis, and telecommunication functions required to:~~

~~5.6.10.1.1 — Submit all required information in the format and timeline specified by DDMHS.~~

~~5.6.10.1.2 — Monitor costs, outcomes, service provision, service accessibility, as specified by DDMHS.~~

~~5.6.10.1.3 — Support high quality and responsive service provision with the capacity to monitor the services delivered by contracted service providers, and/or persons who self-manage as required by DDMHS.~~

~~5.6.10.1.4 — Support appropriate treatment payment, and healthcare operations information on quality assurance, quality improvement, and outcome activities performed by the agency.~~

² Rules, Policies, Procedures & Guidance Documents | Agency of Human Services (vermont.gov)

~~5.6.10.1.5 — Conduct business internally, and with external entities, including DDMHS and other state and local service agencies and systems~~

~~5.6.10.1.6 — Protect confidentiality of consumers when data are transferred to the department and/or other entities in adherence with the Agency of Human Services confidentiality guidelines.~~

~~5.6.10.2 — Designated Agencies and Specialized Service Agencies shall provide the following data to the Department [at least annually and anytime requested by the Department]:~~

~~5.6.10.2.1 — ...~~

~~5.6.10.2.2 — ...~~

~~5.6.10.2.3 — ...~~

~~5.6.11 Record Keeping~~

~~5.6.11.1 — ...~~

~~1.1 —~~

~~1.1.1.1 —~~

~~1.1.1.1.1 —~~

~~1.1.1.1.2 —~~

~~1.1.1.1.3 —~~

~~5.7 — Requirements for Renewal of Agency Designation~~

~~5.7.1 — An Agency seeking a renewal of designation shall continue to meet the requirements established for initial designation, as well as the following requirements:~~

~~5.7.2 — Application~~

~~5.7.2.1 — ...~~

~~2.05.0 Specialized Service Agencies~~

~~2.1 — General~~

~~2.1.1 The Commissioners may enter into agreements with local community mental health and developmental disability agencies or with any public or private agency for the purpose of establishing specialized services which are needed by persons with a mental condition or psychiatric disability or with developmental disabilities or children and adolescents with a severe emotional~~

disturbance and are not available from designated community mental health agencies.

~~2.1.2 Specialized services must meet one of three criteria:~~

~~2.1.2.1 A distinctive approach to service delivery and coordination~~

~~2.1.2.2 Services meet distinctive individual needs.~~

~~2.1.2.3 Prior to January 1, 1998, the organization had a contract with DDMHSDMH/DAIL originally developed to meet service needs as identified in 5.1.1 or 5.1.2.~~

~~2.1.3 The Commissioner may enter into a new Specialized Services contract only if the Commissioner determines that these services are not available from or cannot be developed by a Designated Agency within a reasonable timeframe and in the manner required by the department.~~

~~2.1.3.1 Before entering into new specialized service agreements, the Commissioner shall consult with the Designated Agency within the relevant geographic region(s) to establish whether the specialized service is, or could be made, available by the Designated Agency within a reasonable timeframe and in the manner required by the department, and whether or not the proposed SSA will enhance the local system of care.~~

~~2.1.3.1.1 The Designated Agency shall provide feedback to the Department within 30 days after the request for this information.~~

~~2.1.3.2 Prior to contracting with a new specialized service agency, the Commissioner shall elicit public comment for a period no less than two weeks and/or hold a public hearing to obtain input from interested stakeholders, and will seek input from the State Program Standing Committee.~~

~~2.1.3.2.1 The Commissioner shall consider the public comment and State Program Standing Committee input in determining whether to proceed with a special service agency contract. The Commissioner shall then make a decision that in his/her discretion is in the best interest of the state.~~

~~5.8 Specialized service agencies may be local, regional, or statewide.~~

~~5.1~~

~~5.9 Specialized service agencies are not designated agencies. However, specialized service agencies that meet the requirements of Section 5.1.3. are part of the system~~

of care in Vermont, which assure ensures the provision of services. Therefore, the provisions of Sections 2.1.5. 2.1.6.2. apply to specialized service agencies with respect to the population of clients served by these agencies.

~~5.10~~ The Department shall enter into renewed annual contracts with agencies that meet the requirements of specialized service agencies with the same expectation of an ongoing contractual relationship as the Department has with Designated Agencies, unless the specialized service agency's contract is terminated, not renewed or substantially modified for a performance related cause, as provided in Section 5.9. Subject to available funding, the amount and other terms of such contracts shall reflect the agency's role and responsibilities as described in Sections 5.6 and 5.7.

~~5.11~~ Responsibilities of the Specialized Service agency will be determined by the Commissioner during the development of the Funding Provider agreement, and Agreement and shall include clearly delineated roles and responsibilities between the specialized service agency and the Designated Agency in the relevant geographic area(s).

5.2

~~2.1.45.3~~ Specialized service agencies shall meet the same requirements as a Designated agency, with the following exceptions:

~~2.1.4.15.3.1.~~ Comprehensive Service System: Specialized service agencies ~~will~~ shall not be responsible for assuring that a comprehensive and responsive array of services is available within the designated geographical region.

~~2.1.4.25.3.1.2~~ Local System of Care Plan: Specialized service agencies ~~will~~ shall not be responsible for determining the service needs of the community for each population it serves or developing a plan to address the identified needs. They will be responsible, however, for working collaboratively with the Designated agency in the development of the local system of care plan Local Community Services Plan.

~~5.3.1.3~~ Other requirements, which do not substantially alter program standards in section 4, may be waived ~~at the by the discretion of the Commissioner during development of the contractual agreement.~~

~~2.1.4.3~~

~~2.1.5 Specialized service agencies must be certified by the relevant division as qualified to deliver services.~~

~~2.1.6 An agency meeting the requirements of a specialized services agency may have its contract terminated, not renewed, or substantially modified in the following three circumstances:~~

~~At any time, if the provider has been placed on provisional status (see section 7) and has exhibited unwillingness or inability to improve performance as specified in a Plan of Corrective Action and within the timeframes established by DDMHS/DMH/DAIL;~~
~~2.1.6.1~~

~~At any time, when major deficiencies in the agency's performance of its contractual agreements are detected by the Commissioner (see 6.15.2.); or,~~
~~2.1.6.2~~

~~At any time, if the Commissioner determines the specialized service agency has knowingly disregarded or neglected policies and practices that endanger the health or safety of individuals it serves, violated individuals' human or civil rights; failed to implement a decision resulting from a formal complaint procedure; demonstrated severe fiscal irresponsibility; or falsified data/record-keeping.~~
~~2.1.6.3~~

~~2.1.7 A specialized service agency that has been notified by the Commissioner that its contract will be terminated, not renewed or substantially modified shall be given notice and an opportunity to appeal, following the procedures set forth in Section 9 of these regulations.~~

~~2.1.8 The Commissioner may enter into special service contracts other than with specialized service agencies, as described in 18 V.S.A., Chapter 207, Sec. 8912.~~

3.06.0 State Program Standing Committees

3.1 General

6.1 Standing Committees. There shall be a State Program Standing Committee (State Committee) for each DDMHS population served by Designated Agencies, and their families: 1) Adult Adult Mental Health; Child, Youth and Family Mental Health; 2) Child, Adolescent, and Family

Mental Health; and 3) ~~and~~ Developmental Disabilities services. ~~[DAH's purview] ...~~

6.1.1 ~~The Advisory Board created by 18 V.S.A. § 8733 shall be the State Committee for Developmental Disabilities services. The State Committee shall comply with the requirements of that ~~that~~ section.~~

3.1.1 ~~The State Committee for Adult Mental Health, and the State Committee for Child, Youth, and Family Mental Health as stated in 313.3.~~

6.1.2 ~~Each State Committee shall comply with the following requirements:~~

6.1.2.1 ~~The State Committee(s) shall be comprised of between 109 and 15 members, a majority of whom will be ~~dis~~ ~~consumer~~ ~~elient~~ ~~individuals~~ and family members of the disability group that they represent.~~

6.1.2.2 ~~A majority of members shall be ~~dis~~ ~~closed~~ individuals with lived experience and/or family members of the disability group that they represent.~~

6.1.2.2.1 ~~At least five members of the~~ ~~For the Adult Mental Health State Committee, this(s) shall be ~~be~~ ~~current~~ or former ~~dis~~ ~~closed~~ ~~adult~~ individuals with lived experience ~~individual~~ ~~individual~~ of mental health services.~~

6.1.2.2.2 ~~At least five members of the~~ ~~For the Child, Adolescent, and Family Mental Health State Committee, this(s) shall be either ~~dis~~ ~~closed~~ ~~former~~ ~~current~~ or former youth individuals with lived experience, or family members of current or former youth individuals with lived experience of mental health services.~~

6.1.2.3 ~~All members shall be appointed by the ~~Commissioner~~ ~~Governor~~ or designee of ~~DMH~~ for terms of three years.~~

~~At least 51% of the DS Committee~~

~~At least five members majority of the members of the Adult Mental Health State Committee shall be ~~current~~ or former ~~dis~~ ~~closed~~ ~~adult~~ ~~client~~ ~~individuals~~ ~~dis~~ ~~closed~~ ~~client~~ ~~individuals~~ and/or former ~~client~~ ~~individuals~~ of mental health services.~~

~~At least five members of the Mental Health State Committee shall be either ~~dis~~ ~~closed~~ youth ~~client~~ ~~individuals~~, or family~~

members of current or former youth client individuals of mental health services.

3.1.1.1 A majority of the members of the Child, Youth, and Family Mental Health State Committee shall be disclosed client individuals and/or former client State Committee individuals or family members. The client individuals' representatives may choose to meet during the same time or different meeting times. Quorums for votes will be determined based on members present for that meeting.

3.1.1.2 All members of the State Program Standing Committees shall be appointed by the Governor for staggered terms of three years, and shall serve until a successor is appointed.

3.1.1.3 An already existing statewide board or committee may serve as the State Program Standing Committee if it meets the membership requirements as stated in 3.1 and performs the functions as stated in 3.1.

3.1.2 The Developmental Disabilities Advisory Board created by 18 V.S.A., Chapter 204A, section 8733 shall serve as the State Program Standing Committee for this population.

6.2 Duties and Responsibilities

3.2

State Committee functions shall include:

6.2.1.1 Assisting in the identification of candidates for the State Committee;

6.2.1.2 State Committee meeting planning and facilitation;

6.2.1.3 Providing recommendations to the Department(s) regarding agency initial and redesignation, which may will include:

6.2.1.3.1 reviewing aggregated data and reports provided by the Department, as outlined in Section X, and

6.2.1.3.2 meeting with representatives from the Agency

6.2.1.4 Ranking and recommending priority areas of focus for the statewide system of care, to be updated at least every three years. The committee will focus on these priority areas when planning their agendas and engaging in work;

6.2.1.4.1 In addition to the formal recommendation process, the committee will discuss concerns about the system of care as they arise

6.2.1.4.2 As needed, the committee will formalize concerns to share with Commissioner(s) as appropriate

6.2.1.5 Providing to the Department recommendations for candidates for classified leadership positions involved in the Agency Designation process; and

6.2.1.6 EProviding to the Department recommendations regarding new service policies or procedures, management of grievances and appeals data, or other themes identified across Agencies; valuation of Quality: The Committees shall advise the Department on the quality and responsiveness of services offered statewide

6.2.1.7 Department Policy: The Committees shall review and recommend new policy that pertains to or significantly influences services for the population they represent.

6.2.1.8 Grievances & Individual Service Appeals: The Committees shall review aggregate information on the grievances and individual service appeals at least annually.

~~3.2.1 The State Committee shall advise the department on the performance of the system with respect to the points below, based on a uniform evaluative format developed by DDMHSDMH/DAIL. Responsibilities of the State Committee shall include:~~

~~3.2.1.1 Hiring of Key Management: The Commissioner shall seek advice from the Committee in the appointment of a new Division and/or Unit director. The Division Director shall no less than annually seek feedback from the committee regarding program management.~~

~~3.2.1.2 Evaluation of Quality: The Committee shall review information and advise the Department on the quality and responsiveness of services offered statewide.~~

~~3.2.1.3 State System of Care Plan: The Committee shall participate in the development of the State System of Care Plan and its updates. In doing so, it will advise the Department in regard to establishing general priorities for resource allocation consistent with the State System of Care Plan. Committee members will have a working knowledge of:~~

~~3.2.1.3.1 Regulatory requirements or mandates that significantly influence resource allocation decisions~~

~~3.2.1.3.2 Other community and departmental pressures on the resources~~

~~3.2.1.3.3 Outcomes related to system of care plan priorities and general resource allocations~~

~~3.2.1.3.4 Any new initiatives, demonstration projects.~~

~~3.2.1.4 Department Policy: The Committee shall review and recommend policy that pertains to or significantly influences services for the population they represent.~~

~~3.2.1.5 Complaints, Grievances & Appeals: The Committee shall review aggregate information on the frequency, nature and resolution of complaints about services in order to make recommendations on how the statewide network of services or Departmental operations could be improved.~~

~~3.2.1.6 The State Program Standing Committee shall be involved in the agency Agency designation and re-designation process, as defined in section 6 of these rules.~~

4.0 — Corrective Action Plan

~~4.1 — If the Commissioner determines that an Agency fails to comply with this Rule, the Agency's service plan, or otherwise fails to satisfactorily meet the needs of client/individuals, the Commissioner shall provide a written notice to the Agency that outlines the deficiencies and the potential for termination of designated status.~~

~~4.2 — The board of directors shall have six months to review the Commissioners' stated concerns and implement a corrective action plan.~~

~~4.3 — If, [after six months] from the date of notification to the Agency board, the deficiencies have not been addressed to the satisfaction of the Commissioner, the Commissioner may terminate the designated status of an Agency.~~

5.0 — Provisional Designation, Termination of De-Designation, and Cancellation of Specialized Service Agency of Contract

5.1 — Redesignation

~~5.1.1 — Each designated agency must be evaluated for re-designation every four years. The Commissioner shall set a schedule for re-designation as required.~~

~~5.1.1.1 The Boards of existing designated agencies may apply for new designation for an additional population, provided they meet the requirements and there is not an existing DA in the geographic area for that population.~~

~~5.1.2 — Agencies will be initially or re-designated through a separate, but similar process, for each of the three populations served by DDMHS.~~

~~5.1.3 — For agencies undergoing initial or re-designation for more than one population, information required for the re-designation process that is identical across populations can be used for each re-designation process.~~

~~5.1.3.1 For agencies serving more than one population, DDMHS shall have the discretion to determine whether to conduct the initial or re-designation process simultaneously for each population.~~

~~5.1.4 — Agencies may apply for initial designation if~~

~~5.1.4.1 the Commissioner has notified the designated agency in a geographic area of intent to de-designate~~

~~5.1.4.2 the designated agency decides not to apply for re-designation.~~

- ~~5.1.5 The Commissioner shall initiate the **initial** designation process by publishing in newspapers of record, as approved by the Secretary of State pursuant to 3 V.S.A. section 839(d), the intent of DDMHS to designate a new nonprofit agency to ensure service provision in a specified geographic area for one of the three populations served by DDMHS. The posting shall include a description of a “Designated Agency”, the date for submission of an application, and how to obtain more information.~~
- ~~5.1.5.1 Requests for initial designation application shall be submitted in writing to the Commissioner by the agency seeking initial designation.~~
- ~~5.1.6 The Commissioner shall initiate the **re-designation** process by written notice to the President of the Board of Directors and the Executive Director, that the agency must submit an application for re-designation.~~
- ~~5.1.6.1 Written notification by the Commissioner of the need for re-designation will be provided at least three hundred (300) days prior to the expiration of the agency’s current designation status.~~
- ~~5.1.6.2 Agencies desiring re-designation shall submit a letter of intent to apply for re-designation to the Commissioner within thirty (30) days following receipt of the notification.~~
- ~~5.1.7 A formal application for initial or re-designation shall be submitted by the agency within sixty (60) days of notification of need for re-designation or invitation to apply for initial designation from the Commissioner.~~
- ~~5.1.7.1 A uniform format shall be developed by DDMHS to be used for all initial and re-designation applications.~~
- ~~5.1.7.2 The application shall document the agency’s ability to provide satisfactory leadership in addressing the needs of the people in its designated area; provide or cause to be provided high quality and responsive services; meet the criteria established in Section 4; and meet other criteria as established by law and in DDMHS policies and procedures.~~
- ~~5.1.8 Within ten (10) working days after receipt of the application for initial or re-designation, the application will be reviewed for completeness by DDMHS, and the agency will be notified of the application status.~~
- ~~5.1.8.1 If the application is not complete, the agency will have thirty (30) days to provide the missing information.~~
- ~~5.1.8.2 For re-designations, if the missing information is not provided within the necessary timeframe to complete the re-designation process, the agency will be placed on~~

~~provisional status. The Commissioner may end provisional status once the application is complete (see section 7).~~

- ~~5.1.9 Upon receipt of the completed application for initial or re-designation, the Commissioner shall publish in newspapers of record within the geographic area of the designated agency, as approved by the Secretary of State pursuant to 3 V.S.A. section 839(d), the intent of the agency to seek initial or re-designation. The posting shall include the purpose and process for initial or re-designation, the time and location of any public forum, if offered and the process for providing written, electronic or fax comments:~~
- ~~5.1.9.1 DDMHS Program Directors, or their representative, shall solicit public comment for a period no less than two weeks and/or hold a public forum in the geographic area of the agency seeking initial or re-designation.~~
- ~~5.1.9.2 The public forum, if offered and public comment period shall be held within forty-five (45) days of the receipt of the completed application for re-designation.~~
- ~~5.1.9.3 Representatives of the State Program Standing Committee shall attend the public forum, if offered.~~
- ~~5.1.9.4 If an agency is simultaneously requesting designation for more than one population, the public forum, if offered, and public comment period will be structured to solicit information regarding each population.~~
- ~~5.1.10 The State Program Standing Committee for the relevant service system shall evaluate each application for initial or re-designation against the criteria set forth in Department policy (see Section 4) by reviewing the following types of information, which will be analyzed and summarized by DDMHS staff for the group's review:~~
- ~~5.1.10.1 The formal re-designation or initial application and supporting materials submitted by the agency.~~
- ~~5.1.10.2 Supplemental information about agency performance provided by DDMHS, which may include:~~
- ~~5.1.10.2.1 Records of assessments conducted by DDS and DMH on outcome performance, consumer responsiveness, consumer and family satisfaction, and service quality~~
- ~~5.1.10.2.2 The agency's record on resolution of disputes and grievances.~~
- ~~5.1.10.2.3 Information from persons with developmental disabilities or behavioral health needs regarding their satisfaction with service currently available and provided in the geographic area and/or their perceptions of the agency's ability to function as a designated provider.~~

- ~~5.1.10.2.4 Information from other service agencies and systems in the region about the agency's performance and collaboration.~~
- ~~5.1.10.2.5 Other materials, such as certification from state or national accreditation bodies, special awards, etc.~~
- ~~5.1.10.2.6 Testimony presented by citizens at the public forum, if offered and/or or comments submitted in writing, electronically or by fax during the information gathering period by contracted service providers, service recipients, personnel of other state departments and the general public.~~
- ~~5.1.10.3 If an agency requesting initial designation has been serving persons within DDMHS's purview in another capacity, supplemental information provided by DDMHS about agency performance in the other capacity as outlined in section 6.10.2 will be reviewed by the State Program Standing as outlined in section 6.10~~
- ~~5.1.11 If an agency has received certification from one or more state or national accreditation bodies, DDMHS may substitute relevant accreditation review findings for related designation requirements.~~
- ~~5.1.11.1 Agencies requesting a substitution of relevant findings must identify in the initial or re-designation application those areas for which they are requesting substitutions and submit relevant accreditation findings and reports related to that substitution with their application for initial or re-designation.~~
- ~~5.1.12 The State Program Standing Committee shall submit a written recommendation to the Commissioner regarding initial or re-designation, and supporting documentation for this recommendation no later than ninety (90) days after receipt of the completed application for initial or re-designation.~~
- ~~5.1.13 The Commissioner, in consultation with the DDMHS Program Director, shall review the State Program Standing Committee's recommendation and other materials regarding agency performance, and make a decision regarding agency re-designation or initial designation within one hundred ten (110) days after receipt of the completed application for re-designation.~~
- ~~5.1.13.1 The timeframe of one hundred ten (110) days after receipt of the completed application for re-designation may be extended if additional fact finding is deemed necessary by the Commissioner. This extension shall be no longer than sixty (60) days.~~
- ~~5.1.14 The Commissioner shall notify each applicant organization regarding the designation decision within one hundred twenty (120) days after receipt of the completed application for re-designation.~~

~~5.1.14.1 If section 6.13.1. is invoked, this timeframe shall be extended up to one hundred eighty (180) days after receipt of the completed application for re-designation.~~

~~5.1.15 If the Commissioner determines that an agency has not fully met the initial or re-designation requirements and/or responsibilities, the Commissioner may:~~

~~5.1.15.1 In a situation in which there are minor deficiencies in meeting the designation requirements and/or responsibilities, notify the agency that it will be initially or re-designated, with the understanding of the need for corrections, and a time limit and plan for such corrections.~~

~~5.1.15.1.1 "Minor deficiencies" are those that do not affect the agency's ability to meet the essential elements of the requirements contained in Section 4 of these rules.~~

~~5.1.15.1.2 "Essential elements" refer to the specific principles, procedures, or actions described in each of the requirements contained in Section 4 of these rules, which are minimum standards that designated agencies must meet.~~

~~5.1.15.2 For re-designations: In a situation in which there are major deficiencies in the agency's ability to meet the essential elements of the designation requirements and/or responsibilities, notify the agency of intent to de-designate and immediately place the agency on *provisional* status (see sections 7 and 8).~~

~~5.1.15.2.1 "Major deficiencies" are those that affect the agency's ability to meet the essential elements of the requirements contained in Section 4 of these rules. This also refers to situations in which the designated agency has knowingly disregarded or neglected policies and practices that endanger the health or safety of individuals it serves; violated individuals' human or civil rights; failed to implement a decision resulting from a formal complaint procedure; demonstrated severe fiscal irresponsibility; or falsified data/record keeping.~~

~~5.1.15.2.27.0 "Essential elements" refer to the specific principles, procedures, or actions described in each of the requirements contained in Section 4 of these rules, which are minimum standards that the designated agencies must meet.~~

~~5.1.15.2.3 A sufficient number of minor deficiencies may result in an agency being deemed by the Commissioner as not able to meet the essential elements of the designation requirements and/or responsibilities.~~

~~5.1.16 For initial designations: If the Commissioner determines that an agency has failed to meet the designation criteria, the Commissioner may designate the agency on a *provisional* basis (see Section 7.) or deny designated agency status to the organization~~

~~5.1.16.1 An agency not chosen for initial designation shall have the right to appeal the decision pursuant to the process set forth in section 9 of these regulations.~~

5.27.1 Provisional Designation

~~5.2.1 The notification of provisional status may serve as the notification of intent to de-designate an agency or cancel a special service agency contract.~~

~~5.2.2 The Commissioner may place an agency on provisional status without intent to de-designate or cancel the special service contract.~~

7.1.1 An Agency may be placed on provisional status at any time, following a determination by the Commissioner that the Agency has:

7.1.1.1 Failed to comply with this rule or other applicable regulations;

7.1.1.2 Knowingly disregarded or neglected policies and/or practices that could endanger the health or safety of client individuals, their family members, employees, or the public;

7.1.1.3 Violated an individual's human or civil rights;

7.1.1.4 Failed to implement one or more items on a Corrective Action Plan (or equivalent) as accepted by the Department(s).

7.1.1.5 Pattern of failed implementation decisions resulting from grievance and/or individual service appeals processes; Failed to implement a decision resulting from a formal complaint procedure;

7.1.1.6 Engaged in severe fiscal irresponsibility; or

7.1.1.7 Falsified data/record keeping.

~~5.2.3 An agency may be placed on provisional status at any time, resulting from following a determination by the Commissioner that:~~
as follows:

~~5.2.3.1 As a result of the initial designation when major deficiencies are detected by the Commissioner (see 6.15-6.16);~~

~~5.2.3.2 As a result of the re-designation process, where major deficiencies are detected by the Commissioner (see 6.15);~~

~~5.2.3.3 At any time, when The Agency and/or its service delivery has major deficiencies are detected by the Commissioner (see 6.15);~~
or

~~At any time, as a result of a determination by the Commissioner that a designated The agency Agency or special service agency Agency has knowingly failed to comply with, disregarded or neglected this rule or applicable regulations; or~~

~~The Agency has:~~

~~The Agency has: knowingly disregarded or neglected policies and/or practices that:~~

~~Knowingly disregarded or neglected policies and/or practices that could endangered the health or safety of clients, their family members, employees, or the public individuals it serves;~~

~~Violated an individuals' human or civil rights;~~

~~Failed to implement a decision resulting from a formal complaint procedure;~~

~~Engaged in severe fiscal irresponsibility; or~~

~~5.2.3.4 Falsified data/record keeping.~~

~~5.2.47.1.2~~ The notification of provisional status from the Commissioner to the Agency shall include:

~~7.1.2.1~~ The reasons for such action;

~~5.2.4.1~~

~~7.1.2.2~~ The conditions under which ~~DDMHSDMH/DAIL~~ may continue to purchase services from the agency Agency while under provisional status; and

~~5.2.4.2~~

~~5.2.4.3~~ 7.1.2.3 The requirements for a Plan of Corrective Action in order to be reconsidered for re-designation, including:

~~7.1.2.3.1~~ The specific areas needing correction

~~5.2.4.3.1~~

~~7.1.2.3.2~~ The timeframes within which the elements of the plan of correction will be addressed, not to exceed 180 days.

~~5.2.4.3.2~~

~~5.2.4.3.3~~ 7.1.2.3.3 The criteria upon which the Plan of Corrective Action, and the subsequent report on implementation, will be evaluated for acceptability by the Commissioner

7.1.3 The notification of provisional status may serve as the notification of intent to de-designate an ~~agency~~ Agency or cancel a specialized service ~~agency~~ Agency contract.

7.1.4 The Commissioner may place an ~~agency~~ Agency on provisional status without intent to de-designate or cancel the specialized service contract.

7.1.5 ~~Plan of Corrective Action Plan~~ Plan

7.1.5.1 If the Commissioner determines that an Agency fails to comply with this Rule, the Agency's service plan, or otherwise fails to satisfactorily meet the needs of client individuals, the Commissioner shall provide a written notice to the Agency that outlines the deficiencies and the potential for termination of designated status.

~~The board of directors shall have six months to review the Commissioners' stated concerns and implement a corrective action plan.~~

7.1.5.2 The ~~agency~~ Agency shall submit a Plan of Corrective Action (Plan) to the Commissioner no later than thirty (30) days after receipt of the Commissioner's notification of provisional status.

~~The Commissioner may place an agency on provisional status without intent to de-designate or cancel the special service contract.~~

~~5.2.5~~ The agency shall submit a Plan of Corrective Action to the Commissioner no later than thirty (30) days after receipt of the Commissioner's notification of provisional status.

~~5.2.6~~ The Commissioner, with advice from the DDMHS Program Director, will review the Plan of Corrective Action and notify the agency, in writing, of its acceptability within thirty (30) days of receipt of the Plan.

7.1.5.3 If the Plan of Corrective Action is deemed acceptable by the Commissioner, the ~~agency~~ Agency provisional status will be extended for the timeframe specified within the Plan.

~~5.2.6.1~~

~~5.2.6.27.1.5.4~~ If the Plan of Corrective Action is deemed not acceptable by the Commissioner, the Commissioner shall notify the ~~agency~~Agency, in writing, of intent to proceed with de-designation or contract cancellation or the need for additional information. This extension for additional information will be no longer than 15 days.

~~5.2.77.1.5.5~~ At the end of the specified timeframe, the ~~agency~~Agency shall submit a ~~r~~Report to the Commissioner documenting that the corrections were made in accordance with the Plan of Corrective Action.

~~5.2.7.1~~ The Commissioner shall use discretion in selection of the appropriate method for evaluation of the corrective action(s), including, but not limited to, review by Department staff, review by an external population-specific state board or committee, or review by a consultant with expertise in the area of concern.

~~7.1.5.6~~ If the Corrective Actions are not acceptable by the Commissioner, the Commissioner shall notify the ~~agency~~Agency, in writing, of intent to proceed with de-designation or contract cancellation or continuation of provisional status.

~~7.1.5.7~~ Continuation of Provisional status ~~will~~may be granted for a period not to exceed 180 days and will only be granted in situations in which the ~~agency~~Agency is making significant gains and is expected to meet or exceed all requirements within the additional timeframe granted.

~~5.2.7.2~~

~~5.2.8~~ The Commissioner shall notify the agency, in writing, of the decision regarding the continuation of provisional status within thirty (30) days of receipt of the Report.

~~7.1.6~~ While an ~~agency~~Agency is under provisional status for a specific population, ~~DDMHSDMH/DAIL~~ may:

~~5.2.9~~

~~7.1.6.1~~ Suspend or amend terms of the annual contract or other service agreements between ~~DDMHSDMH/DAIL~~ and the ~~agency~~Agency, as allowed by contract.

~~5.2.9.1~~

~~7.1.6.2~~ Contract with other agencies to ensure uninterrupted service provision and quality.

~~5.2.9.2~~

7.1.6.3 Initiate the process to identify a new Designated agency Agency for that geographic area.

~~5.2.9.3~~

5.2.9.47.1.6.4 Take additional actions, as determined necessary by the Commissioner, to protect the well-beingwell-being of service recipientsclientindividuals.

5.37.2 ~~Loss of De-~~ **Designation and Cancellation of Specialized Service Agency Contract**

~~5.3.1~~ General

~~5.3.1.1~~7.2.1 The Commissioner may initiate the process of Agency De-designation (for a Designated Agency) or contract cancellation (for a Specialized Service Agency) to terminate an Agency's designated status if:

~~5.3.1.1.1~~ The Commissioner after discussion with the board of a community mental health and developmental disability agency Agency determine that the local community services plan required by section 8985 of this chapter is inadequate to meet the needs of persons with a mental condition or psychiatric disability or with developmental disabilities or children and adolescents with a severe emotional disturbance in accordance with the provisions of 33 V.S.A. chapter 43 in the area served by a mental health and developmental disability agency Agency or that an agency Agency has, for reasons other than lack of resources, failed or refused to implement an otherwise adequate plan; or

~~5.3.1.1.2~~ The Agency fails to comply with the requirements of this Rule and all other relevant regulations.

~~5.3.1.2~~ A designated or special service agency may be notified by the Commissioner of intent to proceed with de-designation or cancellation of a SSA contract in three circumstances:

~~5.11.1.1~~ As a result of the re-designation process, if the agency Agency has been placed on provisional status and has exhibited the unwillingness or inability to improve performance as specified in the Plan of Corrective Action and within the timeframes established by DDMHDMH/DAIL; or

7.2.1.1

7.2.1.2 The Commissioner determines an Agency meets one or more of the criteria identified in Section 7.1.1, and that Provisional status is not appropriate for the Agency.

~~5.11.1.2 At any time, when major deficiencies are detected by the Commissioner (see 6.15); or,~~

~~5.3.1.2.1 At any time, if the Commissioner determines that a designated or Specialized Service agency has knowingly disregarded or neglected policies and practices that endanger the health or safety of individuals it serves; violated individuals' human or civil rights; failed to implement a decision resulting from a formal complaint procedure; demonstrated severe fiscal irresponsibility; or falsified data/record keeping.~~

~~5.3.1.37.2.2 The date for de-designation or contract cancellation or contract cancellation shall be determined by the Commissioner, and Commissioner and shall be dependent on the actions necessary to ensure that client individuals, persons with developmental disabilities or behavioral health/mental health needs within the geographic area of the agency continue to receive the supports and services that they need.~~

7.2.3 The agency to be de-designated or have their contract cancelled or to have its contract cancelled shall be notified in writing of:

~~5.3.1.3.1~~

5.3.1.3.1.17.2.3.1 The effective date for de-designation or contract cancellation or contract cancellation;

7.2.3.2 The circumstances by which DMH/DAIL will continue to purchase services through the Agency until de-designation or contract cancellation is effective; and

7.2.3.3 The actions DMH/DAIL will undertake to replace the agency's functions and ensure high-quality service provision to persons living in the geographical area; and,

~~5.3.1.3.1.27.2.4~~ The Agency to be de-designated or have its contract cancelled must shall inform its current client individuals of the change in the Agency's status, and provide them with information about future arrangements, as agreed upon with the Department(s)

~~5.3.1.3.1.3~~ The circumstances by which ~~DDMHS~~DMH/DAIL will continue to purchase services through the agency ~~Agency~~ until de-designation or contract cancellation occurs.

~~5.3.1.4.7.2.5~~ At any time during the de-designation or cancellation process for a specific population, ~~DDMHS~~DMH/DAIL may:

~~7.2.5.1.1~~ Suspend or amend terms of the annual contract or other service agreements between ~~DDMHS~~DMH/DAIL and the agency ~~Agency~~, as allowed by contract.

~~5.3.1.4.1~~

~~5.3.1.4.2~~ Contract with other agencies to ensure uninterrupted service provision and quality.

~~5.3.1.4.3~~ Initiate the process to identify a new designated agency ~~Agency~~ for that geographic area.

~~5.3.1.4.4.7.2.5.1.2~~ Take additional actions, as determined necessary by the Commissioner, to protect the well-being ~~well-being~~ of service recipients ~~clients~~ individuals.

~~Cancellation of Specialized Service Agency Contract~~

~~An Agency meeting the requirements of a specialized services agency may have its contract terminated, not renewed, or substantially modified in the following three circumstances:~~

~~At any time, if the provider has been placed on provisional status and has exhibited unwillingness or inability to improve performance as specified in a Plan of Corrective Action and within the timeframes established by DMH/DAIL;~~

~~At any time, when major deficiencies in the Agency's performance of its contractual agreements are identified by the Commissioner; or~~

~~At any time, if the Commissioner determines the specialized service Agency has knowingly disregarded or neglected policies and practices that endanger the health or safety of individuals it serves; violated individuals' human or civil rights; failed to implement a decision resulting from a formal complaint procedure; demonstrated severe fiscal irresponsibility; or falsified data/record keeping.~~

~~A specialized service Agency that has been notified by the Commissioner that its contract will be terminated, not renewed or substantially modified shall~~

be given notice and an opportunity to appeal, following the procedures set forth in this rule.

8.0 Appeals

5.12—A Designated Agency that has been notified by the Commissioner of the intent to proceed with de-designation, or to not to grant initial designation status, shall have the right to appeal the decision.

8.1

—Any specialized service agency that has been notified by the Commissioner of intent to cancel a contract shall have the right to appeal the decision to (a) cancel or not renew its contract, or (b) substantially modify its role and responsibilities or the contract which reflects the agency's role and responsibilities as set forth in this rule. Any specialized service agency that has been notified by the Commissioner of the intent to cancel or not renew its contract, or substantially modify its role and responsibilities, shall have the right to appeal the decision.

8.2 Any specialized service Agency that has been notified by the Commissioner of intent to cancel a contract shall have the right to appeal the decision to (a) cancel or not renew its contract, or (b) substantially modify its role and responsibilities or the contract which reflects the Agency's role and responsibilities.

8.3 Notice of Appeal. A written Notice of Appeal, stating the grounds for such appeal, must shall be filed with the Commissioner within 10 days following the Agency's receipt of notification from the Commissioner of the intent to de-designate the Agency, cancel or not renew Agency contracts or not to designate the Agency initially. Agencies do not have the right to appeal decisions related to placement on provisional status.

8.4 Notice of hearing. As soon as practicable, a date certain shall be set for the appeal hearing, with notice to all parties. Within forty-five (45) days of the filing of the Notice of Appeal, a hearing shall be conducted by the Commissioner or his/her their designee (hereafter "Commissioner"). The purpose of the hearing shall be to ensure that the Commissioner has considered all pertinent information available prior to making a final decision regarding the Agency's status.

8.5 Disclosure of Information. Upon request of any party related to the appeal, the Department shall promptly provide the party with all public documents and records it relied upon in reaching its decision.

8.6 Conduct of hearing. At the hearing, the parties may present evidence and witnesses and be represented by counsel. The record of the hearing shall include a tape-recording of the hearing, records relied upon, and any other information deemed by the Commissioner to be necessary for the proceeding. -The Department of Developmental Mental Health and/or the Department of Disabilities, Aging, and

Independent Living and Mental Health Services shall retain this record per the State of Vermont Record Retention schedule for safekeeping for a reasonable time. The proceedings shall be open to the public. When public access threatens confidentiality rights, any party to the proceeding may seek appropriate measures to protect confidentiality, and the Commissioner shall take necessary steps to protect confidentiality.

8.7 Notice of decision. The Commissioner shall issue a final written decision within thirty (30) days of the hearing based upon the evidence presented orally and in writing. The decision shall be sent to all parties.

8.8 If any of the parties wish to appeal the decision of the Commissioner, they may submit an appeal, in writing, to the Secretary of the Agency of Human Services within ten (10) days of receipt of the Commissioner's decision. The Secretary of the Agency of Human Services shall base his/her review on the record presented to the Commissioner.

8.9 The Secretary of the Agency of Human Services shall issue a written decision within 30 days. The decision of the Secretary of the Agency of Human Services will be the final action of the Agency. If further review is available to an aggrieved party, it shall be brought in the court authorized to review civil matters within 10 days of receipt of the final Agency of Human Services action and shall be based upon the record established at the hearing before the Commissioner and the decision of the Secretary of the Agency of Human Services

5.4 Appeals

~~An agency that has been notified by the Commissioner of intent to de-designate or not to grant initial designation status shall have the right to appeal the decision.~~

~~5.4.1 Any specialized service agency that has been notified by the Commissioner of intent to cancel a contract shall have the right to appeal the decision to (a) cancel or not renew its contract, or (b) substantially modify its role and responsibilities or the contract which reflects the agency's role and responsibilities, as described in Sections 5.4. 5.7. Any such notice to a specialized service agency that meets the requirements of Section 5.1, shall state the performance-based grounds under Section 5.9, for the proposed action by the Commissioner.~~

~~5.4.1.1 Notice of Appeal. A written Notice of Appeal, stating the grounds for such appeal, must be filed with the Commissioner within 10 days following the agency's receipt of notification from the Commissioner of the intent to de-designate the agency, cancel or not renew agency contracts or not to designate the agency initially. Agencies do not have the right to appeal decisions related to placement on provisional status.~~

~~5.4.1.2 Notice of Hearing. As soon as practicable, a date certain shall be set for the~~

appeal hearing, with notice to all parties. Within forty five (45) days of the filing of the Notice of Appeal, a hearing shall be conducted by the Commissioner or his/her designee (hereafter "Commissioner"). The purpose of the hearing shall be to assure that the Commissioner has considered all pertinent information available prior to making a final decision regarding the agency's status.

~~5.4.1.3 Disclosure of Information.~~ Upon request of any party related to the appeal, the Department shall promptly provide the party with all public documents and records it relied upon in reaching its decision.

~~5.4.1.4 Conduct of Hearing.~~ At the hearing, the parties may present evidence and witnesses and be represented by counsel. The record of the hearing shall include a tape recording of the hearing, records relied upon, and any other information deemed by the Commissioner to be necessary for the proceeding. The Department of Developmental and Mental Health Services shall retain this record for safekeeping for a reasonable time. The proceedings shall be open to the public. When public access threatens confidentiality rights, any party to the proceeding may seek appropriate measures to protect confidentiality, and the Commissioner shall take necessary steps to protect confidentiality.

~~5.4.1.5 Notice of Decision.~~ The Commissioner shall issue a final written decision within thirty (30) days of the hearing based upon the evidence presented orally and in writing. The decision shall be sent to all parties.

~~5.4.1.6~~ If any of the parties wish to appeal the decision of the Commissioner, they may submit an appeal in writing, to the Secretary of the Agency of Human Services within ten (10) days of receipt of the Commissioner's decision. The Secretary of the Agency of Human Services shall base his/her review on the record presented to the Commissioner.

~~The Secretary of the Agency of Human Services shall issue a written decision within 30 days. The decision of the Secretary of the Agency of Human Services will be the final action of the agency. If further review is available to an aggrieved party, it shall be brought in the court authorized to review civil matters within 10 days of receipt of the final Agency of Human Services action and shall be based upon the record established at the hearing before the Commissioner and the decision of the Secretary of the Agency of Human Services.~~

Catchment Area

~~The catchment area for each designated agency shall be defined by the Commissioner.~~

~~A DA may appeal any change in the catchment area by writing to the Commissioner of DMH or DAIL, as appropriate.~~

~~5.12.1.1~~

9.0 Investigations and Enforcement (not sure this is necessary given loss of designation above)

~~6.0~~

~~9.1~~ ~~DDMHS~~ ~~DMH/DAI~~ The Departments will routinely review agency operations and the services offered or supported by the ~~D~~designated or ~~S~~specialized ~~S~~service agency ~~Agency~~ to ensure that they are operated in compliance with department rules, regulations, contract/grant requirements, division mission, and the local service plan. These reviews may include site visits and may or may not be announced in advance.

~~6.1~~

~~9.2~~ ~~DDMHS~~ The Departments ~~DMH/DAI~~ may additionally perform investigations ~~investiagi~~ ~~investigate~~ of actions of an agency ~~agency~~ in response to concerns or feedback ~~complaints~~ or as a result of information received from other sources. Such investigations shall include direct communication and deliberation with the entity filing the ~~complaint~~ concerns or feedback or providing the information to ~~assure~~ ensure that the Department has accurate and complete information. Agency reviews may or may not be announced in advance.

~~6.2~~

~~6.3~~ ~~9.3~~ _____ Findings of these reviews will be considered in the re-designation and contract renewal process

Rule on Agency Designation

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1.0 Authority

1.1 This rule is adopted pursuant to 18 V.S.A. §§ 8907, 8911(b), 8913, 8726(b), 8730, and 8731(c).

2.0 Purpose

2.1 This rule establishes the requirements for the designation of nonprofit agencies (“Designated Agencies”) by the Agency of Human Services (AHS) to provide community mental health and intellectual/developmental disability services within distinct geographic areas of Vermont. Additionally, this rule establishes the obligation of “Specialized Service Agencies” by AHS to provide either community mental health or intellectual/developmental disability services within the State.

2.2 AHS will review this rule annually and update its content, as deemed necessary by AHS, to promote alignment with nationally recognized best practices, state initiatives advancing quality and equity in care delivery, and all applicable state and federal laws.

3.0 Definitions

3.1 “Adverse benefit determination” means any of the following:

3.1.1 Denial or limited authorization of a requested service, including determinations based on the type or level of service, requirements of medical necessity, appropriateness, setting, or effectiveness of a covered service,

3.1.2 Reduction, suspension, or termination of a previously authorized service,

3.1.3 Denial, in whole or in part, of payment for a service,

3.1.4 Failure to provide services in a timely manner, as defined by the Agency of Human Services,

3.1.5 Failure to act within timeframes regarding standard resolution of grievances and appeals,

3.1.6 Denial of a beneficiary's request to obtain services outside the network,

3.1.7 Denial of a beneficiary's request to dispute a financial liability, including cost sharing, copayments, premiums, deductibles, coinsurance, and other beneficiary liabilities."

3.2 “Agency” means a Designated Agency (DA) or a Specialized Service Agency (SSA).

- 3.3 “Board” means the Board of Directors (or equivalent) of an Agency.
- 3.4 “Catchment Area” means a Designated Agency’s geographic service area, as determined by the Commissioner of DMH and/or the Commissioner of DAIL.
- 3.5 “Certification” means the process by which DAIL’s Developmental Disabilities Services Division (DDSD) determines whether a provider meets minimum standards to provide publicly funded supports or services to people with intellectual/ developmental disabilities and/or their families. Certification and designation are interchangeable terms for the purposes of DDSD.
- 3.6 “Commissioner” means either the Commissioner of Mental Health (DMH) or the Commissioner of Disabilities, Aging, and Independent Living (DAIL), as indicated. “Commissioners” refers to both collectively.
- 3.7 “Complaint” means the same as “Grievance” below, with the exception that it can be resolved in one interaction with the initial staff receiving the issue.
- 3.8 “Day” means calendar day, not business day, unless otherwise specified.
- 3.9 “Department” means the Department of Disabilities, Aging and Independent Living (DAIL), or the Department of Mental Health (DMH), as indicated. “Departments” means both DAIL and DMH collectively.
- 3.10 “Developmental Disability” (DD) means an intellectual disability or an autism spectrum disorder which occurred before age 18 and which results in significant deficits in adaptive behavior that manifested before age 18.
- 3.10.1 Temporary deficits in cognitive functioning or adaptive behavior as the result of severe emotion disturbance before age 18 are not a developmental disability.
- 3.10.2 The onset after age 18 of impaired intellectual or adaptive function due to drugs, accident disease, emotional disturbance or other causes is not a developmental disability.
- 3.11 “Disclosed individual” means an individual who openly discloses their disability to the Agency.
- 3.12 “Disability” means, with respect to an individual:
- 3.12.1 A physical or mental impairment, including alcoholism and substance abuse, as defined by the Americans with Disabilities Act, that substantially limits one or more of the major life activities of the individual; or
- 3.12.2 A record of such an impairment; or
- 3.12.3 Being regarded as having such an impairment.

3.13 “Family member” means an individual who is related to a person with a disability by blood, marriage, civil union, or adoption, or considers themselves to be family based upon bonds of affection, and who currently shares a household with the individual with a disability or has, in the past, shared a household with that individual. For the purposes of this definition the phrase, “bonds of affection” means enduring ties that do not depend on the existence of an economic relationship. See the section on Individual Rights for limitations on family member participation.

3.14 “Grievance” means an expression of dissatisfaction about any matter that is not an adverse benefit determination, including an individual’s right to dispute an extension of time proposed by the Medicaid Program and the denial of a request for an expedited appeal. Possible subjects for grievances include, but are not limited to, the quality of care or services provided, aspects of interpersonal relationships such as rudeness of a provider or employee, or failure to respect the member’s rights.

3.15 “Individual” or “Individual with Lived Experience” means a person who is, or was, eligible to receive services from an Agency because of their disability.

3.16 “Individual Appeal” means an internal review by the Medicaid Program of an adverse benefit determination.”

3.17 “Intellectual Disability” defined.

3.17.1 Intellectual disability means significantly sub-average cognitive functioning that is at least two standard deviations below the normative comparison group. On most tests, this is documented by a full-scale score of 70 or below, or up to 75 or below when taking into account the standard error of measurement, on an appropriate norm-reference standardized test of intelligence and resulting in significant deficits in adaptive behavior manifested before age 18.

3.17.2 Intellectual disability includes severe cognitive deficits which result from brain injury or disease if the injury or disease resulted in deficits in adaptive functioning before age 18.

3.18 “Local Community Services Plan,” means the plan required by 18 V.S.A. § 8908 which describes the methods by which an Agency will provide those services.” This was previously referred to as a Local System of Care Plan.

3.19 “Medicaid Program” means:

3.19.1 The Department of Vermont Health Access (DVHA) in its managed care function of administering services, including service authorization decisions, under the Global Commitment to Health Waiver (“the Waiver”);

- 3.19.2 A Department within the Vermont Agency of Human Services (AHS) with which DVHA enters into an agreement delegating its managed care functions including providing and administering services such as service authorization decisions, under the Waiver;
- 3.19.3 A Designated Agency or a Specialized Service Agency to the extent that it carries out managed care functions under the Waiver, including providing and administering services such as service authorization decisions, based upon an agreement with Department within AHS; and
- 3.19.4 Any subcontractor performing service authorization decisions on behalf of a Department within AHS.
- 3.20** “Provider Agreement” means the service contract signed by the Agency and either the Department of Disabilities, Aging and Independent Living, or the Department of Mental Health.
- 3.21** “Related party” means all affiliates of an Agency, including the affiliate’s management and their immediate family members/significant others; the affiliate’s principal owner(s) and families/significant others; investments accounted for by the equity method; beneficial employee trusts managed by management of the Agency and any party that may, or does, conduct business with the Agency and has ownership, control, or significant influence over the management or operating policies of another party to the extent that an arm's length transaction may not be achieved.
- 3.22** “Related-party transaction” means a transaction in which one party to the transaction has the ability to impose contract terms that would not have occurred if one of the parties was not a related party.
- 3.23** “Self/family-managed” means the Individual or their family plans, establishes, coordinates, maintains, and monitors all developmental disabilities services and manages the Individual’s budget within federal and state guidelines.
- 3.24** “Share managed” means that the Individual or their family manages some but not all Medicaid-funded developmental disabilities services, and an agency manages the remaining services.
- 3.25** “Specialized Service Agency” or “SSA” means an agency contracted by the Department(s) to provide specialized services or offer a greater choice in services which are needed by individuals with a serious mental illness, or children and adolescents with a severe emotional disturbance, and/or for persons with developmental disabilities.
- 3.26** “System of care plan” and “State system of care plan” means the plan require by 18 V.S.A. §8725 describing the nature, extent, allocation, and timing of services that will be provided to people with developmental disabilities and their families.

4.0 Designated and Specialized Service Agencies

4.1 General Requirements

- 4.1.1 A Designated Agency (DA) and Specialized Service Agency (SSA) shall comply with all applicable State and federal regulations, contracts, grant agreements, or other legally enforceable documents
- 4.1.2 An Agency contracted through DAIL shall comply with the State System of Care Plan for Developmental Disabilities Services.
- 4.1.3 An Agency contracted through DMH shall comply with the DMH Mental Health Provider Manual.
- 4.1.4 Agency designations shall be determined based on the specific population(s) served by the Department(s).
- 4.1.4.1 Individuals with intellectual/developmental disabilities; and
- 4.1.4.2 Adults with mental illness, or with significant mental health needs; and children and adolescents with, or at risk of, severe emotional disturbance, or with significant mental health needs, and their families
- 4.1.5 An Agency may have multiple designations.
- 4.1.6 Agency designations are for a period not to exceed four years, unless extended by the Commissioner.
- 4.1.7 Agencies may provide services directly and/or may enter into agreements with individuals or organizations for the provision of services.
- 4.1.8 Agencies designated in the area of Developmental Disabilities may only provide services directly if they have been certified by DDS to deliver these services, as required by the 18.V.S.A., Chapter 204A.
- 4.1.9 Designated Agencies shall request and obtain approval from the appropriate Department(s) prior to any merger or contract that impacts service delivery with another Agency or organization when that merger or contract impacts service delivery.

4.2 Agency Designation Process

- 4.2.1 Initial Designation

4.2.1.1 A Designated Agency shall be incorporated to do business in the State of Vermont as a nonprofit organization and shall have received or applied for federal recognition as a tax-exempt charitable organization as defined in Section 501(c)(3) of the Internal Revenue Code of the United States.

4.2.1.2 An organization may apply for initial designation as a Designated Agency if:

4.2.1.2.1 The Designated Agency for the catchment area is notified by the Commissioner of intent to de-designate; or

4.2.1.2.2 The Designated Agency for the catchment area will not apply for re-designation.

4.2.1.3 An organization may apply for initial designation as a Specialize Service Agency if:

4.2.1.3.1 The organization offers a distinctive approach to service delivery and coordination

4.2.1.3.2 Services meet distinctive individual needs

4.2.1.4 An Agency shall apply for initial designation using the application provided by the Department(s).

4.2.1.5 Designated Agencies may apply for new designation for an additional population, provided they meet the requirements and there is not an existing DA in the geographic area for that population or the existing DA is not applying for re-designation.

4.2.1.6 Each Designated Agency shall be evaluated for re-designation every four years.

4.2.1.7 The State Program Standing Committee (Section 6.0) for the relevant service system shall evaluate each application for initial or re-designation, and any relevant supplemental information.

4.2.1.8 The State Program Standing Committee shall submit a written recommendation to the Commissioner regarding initial or re-designation, and supporting documentation for this recommendation.

4.2.1.9 An Agency not chosen for initial designation shall have the right to appeal the decision pursuant to 18 VSA 8911(b).

4.2.2 Re-designation

4.2.2.1 An Agency seeking a renewal of designation shall continue to meet the requirements established for initial designation, as well as the following requirements:

4.2.2.2 Agencies desiring re-designation shall submit a letter of intent to apply for re-designation to the Commissioner no more than thirty (30) days after the Agency's receipt of the Commissioner's written notice letter.

4.2.2.3 A formal application for re-designation shall be submitted by the Agency no more than sixty (60) days after the Agency's receipt of the Commissioner's written notice.

4.2.2.4 Departments shall review relevant information in determining whether re-designation is appropriate, including, but not limited to: Continuous Quality Improvement Plans; Local Community Services Plans; and Agency performance data.

4.2.3 If an agency has received accreditation from one or more state or national bodies, the Department(s) may substitute relevant accreditation review findings for related designation requirements.

4.2.4 The Commissioner(s) shall elicit public comment for a period no less than two weeks and/or hold a public hearing to obtain input from interested public, and will seek input from the appropriate State Program Standing Committee(s).

4.3 Service Delivery Policies

4.3.1 Agencies shall comply with the requirements included in any contracts or agreements with the Vermont Agency of Human Services or of its departments.

4.3.2 An Agency shall not preclude anyone from receiving the services of the Agency due to inability to pay per 18 V.S.A. § 8910(c).

4.3.3 A Designated Agency shall ensure timely provision of services for the individual, as defined in regulation, State System of Care Plan for Developmental Services, and in the DMH Mental Health Provider Manual for Mental Health Services.

4.3.3.1 A Designated Agency shall not discriminate in the administration of programs, services, or activities or exclude any individual from participation in programs, services, or activities based on race, religion, color, national origin, genetic information, marital/familial

status, sex, sexual orientation, gender identity, age, pregnancy status, place of birth, crime victim status, military, veteran status, disability, or any other protected status.

4.3.3.2 The inability of a Designated Agency to meet the needs of an individual shall not be a factor in any decision by the Designated Agency to refuse to serve the individual.

4.3.4 The Designated Agency shall ensure, within its catchment area:

4.3.4.1 That a comprehensive, integrated, accessible and responsive array of services, staff, and supports is available to meet the service needs of eligible persons consistent with the established service and budget priorities and allocations;

4.3.4.2 The provision of all comprehensive services, as detailed in the State System of Care Plan for Developmental Services; and in the DMH Mental Health Provider Manual for Mental Health Services.

4.3.4.3 The provision of crisis response services for the designated populations;

4.3.4.4 Providing, and/or contracting for the provision of, secure and safe services for people who are in the custody of the Commissioner

4.3.4.5 The provision in a timely manner of services needed to assist the Commissioner in any relevant legal proceedings, including transmission of records and witness statements;

4.3.4.6 The provision of timely return to the community from inpatient or institutional placements;

4.3.4.7 The provision of timely processing of: individual applications for service, information and referral to community and government resources, education about choices for service, and support options, including self/family-managed services where applicable;

4.3.4.8 Effective collaboration with related community/human service agencies providing support services in the region, including but not limited to: physical or dental health services, social services, housing and nutrition, substance use disorder services, education services, employment services, relevant state departments/agencies, local emergency departments, law enforcement, Designated and

Specialized Service Agencies, veteran and active military services, peer service organizations, therapeutic foster care services, including collaboration between Mental Health and Developmental Disabilities within the Agency, and higher levels of care.

- 4.3.5 The Agency shall facilitate all necessary referrals to external providers.
- 4.3.6 The Agency shall respond to referrals they receive in a timely manner.
- 4.3.7 The Agency shall continue care coordination for individuals who are referred to a higher level of care, including participation with discharge planning for their expected timely return to the client's community of choice. Documentation for such care shall be maintained for the duration of the Agency's provider agreement, and if, applicable, designation status.
- 4.3.8 The Agency shall ensure that contracts are in place with all service providers with whom the Agency contracts for services using DMH/DAIL funds. The contracts shall detail the roles and responsibilities between the two entities regarding individual services and administrative functions (including information sharing and reporting, fiscal monitoring of individual services, and service plan implementation).
- 4.3.9 The Agency shall provide necessary information and guidance to the Individual or family member regarding their responsibilities for shared management. Individuals and families shall be provided information regarding the option to self/family-manage services.

4.4 Agency Organization and Administration

- 4.4.1 The Agency shall have administrative structures which encourage open communication among all entities (internal and external) and which support the development of mechanisms to identify and respond to organizational needs and concerns. This includes, but is not limited to, processes that support:
 - 4.4.1.1 Consistent values, mission, vision and goals displayed by all Agency staff and policies.
 - 4.4.1.2 Communication and collaboration among managers, staff and administration related to programmatic planning for both short-term and long-term effectiveness. This includes the sharing of organizational outcomes and performance improvement plans.

- 4.4.1.3 Timely and shared decision-making by program managers, supervisors and/or administration.
- 4.4.1.4 Positive staff morale and regular review of staff satisfaction and feedback.
- 4.4.1.5 Communication and collaboration with individuals, families, other providers and community partner organizations.
- 4.4.1.6 Positive community presence and support of key community partner organizations.
- 4.4.1.7 The Agency shall have an organizational chart showing all reporting and supervisory relationships by position titles.

4.5 Culturally and Linguistically Appropriate Services (CLAS)

Designated and Specialized Service Agencies shall align with the National Standards for Culturally and Linguistically Appropriate Services (CLAS)¹ in Health and Health Care. Agencies will provide effective, equitable understandable, and quality services that are responsive to the diverse cultural health beliefs and practices, preferred languages, health literacy, and other communication needs of individuals served.

This will include, at a minimum:

- 4.5.1 Promoting CLAS through policy and practice
- 4.5.2 Recruitment and support of culturally and linguistically diverse staff and leadership
- 4.5.3 Training on CLAS for staff, leadership, and the Board
- 4.5.4 Language access services, as described in the Accessibility section of this Rule (4.15)
- 4.5.5 Ongoing assessment of the organization’s CLAS-related needs and integration into Continuous Improvement goals
- 4.5.6 Collect and maintain accurate and reliable demographic data to monitor and evaluate the impact of CLAS on health equity and outcomes to inform service delivery
- 4.5.7 Ensure information related to the grievance and appeal process is accessible to the individual
- 4.5.8 Ensuring culturally and linguistically appropriate intake and assessment of eligibility for services

4.6 Board of Directors (or equivalent)

¹ Accessed January 2024: <https://thinkculturalhealth.hhs.gov/clas/what-is-clas>

4.6.1 Board Duties

The Board of a Designated Agency shall:

4.6.1.1 Meet the requirements established by 18 V.S.A. § 8909:

4.6.1.1.1 Must be representative of the demographic makeup of the area served.

4.6.1.1.2 At least 51% of the Board must be individuals with lived experience or family members of individuals with lived experience.

4.6.1.1.3 The Board will survey members annually to ensure the requirement is met.

4.6.1.2 Be responsible to the Department(s) for the application and implementation of Agency established policies related to DMH/DAIL funding.

4.6.1.2.1 The Board shall appoint an executive director (or equivalent) who shall be responsible to the Board for all Agency activities and for the application and implementation of Agency established policies.

4.6.1.3 Aligning with 3 V.S.A. § 1222, Board members will be aware of potential conflicts of interest, and disclose the conflict, recuse themselves, and/or discuss with the Board as relevant. This is especially in cases of:

4.6.1.3.1 Executive Director (or equivalent) hiring, review, and/or firing

4.6.1.3.2 New board member selection

4.6.1.4 Determine and promote the mission of the Agency.

4.6.1.5 Assess community needs and resources and provide recommendations to Agency for how to address those identified needs.

4.6.1.6 Review Agency coordination with other service systems and agencies within the geographic area.

- 4.6.1.7 Review, and provide recommendations for, the Continuous Quality Improvement Plan for each DMH/DAIL population served by the Agency.
- 4.6.1.8 Review the service capacity in the geographical area to meet the needs of eligible service recipients, within the guidelines established by, and the resources available from, DMH/DAIL.
- 4.6.1.9 Oversee that policies and services are consistent with the mission and outcomes of the State of Vermont, the Agency of Human Services, DMH/DAIL, and the needs of individuals and families receiving services.
- 4.6.1.10 Recommend or approve new Agency policy and significant policy updates.
- 4.6.1.11 Review and approve the Agency budget and monitor Agency financial status and staff compensation rates.
- 4.6.1.12 Oversee service quality, including the review of aggregate individual satisfaction information, and aggregate information on grievances and individual service appeals.
- 4.6.1.13 Assure that the Agency maintains a technological infrastructure to conduct business effectively with external entities including DMH/DAIL and other state and local service agencies and systems.
- 4.6.1.14 Maintain confidentiality regarding the information it receives during its deliberations on Agency staff and individuals.
- 4.6.1.15 Ensure that Agency staff training is conducted in an effective and timely manner.

4.6.2 Board By-Laws

- 4.6.2.1 The board shall adopt bylaws that include, but are not limited to:
 - 4.6.2.1.1 Clearly written responsibilities and authorities of the Executive Director (or equivalent).
 - 4.6.2.1.2 The powers and duties of the Board, its standing and special committees, and the responsibilities of individuals serving as board members, including attendance requirements.

4.6.2.1.3 That Board meetings be open to the public, except when the Board determines the need to convene in Executive Session.

4.6.2.1.4 A statement of its policies and procedures for disposal of assets and debts and obligations in the event of dissolution of the Agency, including the return to DMH/DAIL of any assets and property directly obtained with DMH/DAIL funds, as allowed by law. When a Designated Agency merges with another organization, the Agency shall obtain written authorization from DMH/DAIL approving the transfer or requiring return of the assets and property purchased directly with DMH/DAIL funds.

4.7 Local Program Standing Committee

4.7.1 The Agency shall establish a Local Program Standing Committee for each population served by the Agency.

4.7.2 Committee Structure

4.7.2.1 Each Local Program Standing Committee shall be comprised of at least five members, a majority of whom shall be disclosed individuals with direct lived experience and/or family members.

4.7.2.1.1 In Developmental Disabilities Services, at least three members shall be people with direct lived experience receiving services.

4.7.2.1.2 In Mental Health Services:

4.7.2.1.2.1 At least two members shall have direct lived experience receiving adult mental health services; and

4.7.2.1.2.2 At least two members shall have direct lived experience receiving child, youth, and family services, or be family members of an individual with that lived experience.

4.7.2.2 At least one member of each Local Program Standing Committee shall serve as a voting member of the Agency Board of Directors (or equivalent).

4.7.2.3 The Local Program Standing Committee may be comprised totally of agency board members if criterion 4.7.2.1 is met.

4.7.2.4 Committee members shall have the knowledge and Agencies shall provide the training necessary to be active participants in the development of the Local Community Services Plan.

4.7.2.5 The Agency Board of Directors (or equivalent) shall determine its policy for reimbursing committee members for expenses that, if not reimbursed, would prohibit the member from attending committee meetings.

4.7.3 Duties and Responsibilities

4.7.3.1 Local Program Standing Committee responsibilities shall include:

4.7.3.1.1 Providing recommendations to the Agency's leadership regarding the appointment of a new program director or the person responsible for program services.

4.7.3.1.2 Providing feedback about Agency operations, management, and quality to the program services director at least annually, including the review of:

4.7.3.1.2.1 Aggregate results of staff, individual, and, if available, community partner organization satisfaction surveys;

4.7.3.1.2.2 Agency or program training plan, as described in 4.12, which shall be updated at least every three years and reviewed at least annually for DDS;

4.7.3.1.2.3 Aggregate results from DMH/DAIL quality processes, and any corrective actions planned or completed;

4.7.3.1.2.4 Agency Continuous Quality Improvement plans and corresponding results; and

4.7.3.1.2.5 Aggregate complaint, grievance, and appeal data and agency responses to any themes identified.

4.7.3.1.3 Engaging with the Agency Executive Director (or equivalent) at least annually.

4.7.3.1.4 Assisting with the development of the Agency's Local Community Services Plan, including establishing priorities for resource allocation, and the schedule for the anticipated provision of new or additional services.

4.8 Continuous Quality Improvement

4.8.1 The Agency shall develop, implement, and maintain an effective, ongoing, Agency-wide data-driven Continuous Quality Improvement (CQI) plan, that is reviewed annually and updated at least every four years. The CQI plan shall:

4.8.1.1 Reflect the complexity of its organization, services, and population served, and involve all Agency services (including those services furnished under contract or arrangement with a third-party);

4.8.1.2 Prioritize indicators related to:

4.8.1.2.1 For mental health populations:
Improved mental health outcomes;

4.8.1.2.2 For developmental services populations:
Community inclusion; independent living; health and safety; trauma evaluation, prevention and mitigation.

4.8.1.3 Prescribe actions to demonstrate clinical care and operational improvements;

4.8.1.4 Include the perspectives of individuals and families and a mechanism for input by community partner organizations, as appropriate.

4.8.2 The Agency shall maintain documentation of its quality assessment and performance improvement program and provide such documentation to the Department(s) upon request.

4.8.2.1 There shall be at least one measurable outcome for each goal of the CQI plan.

4.8.2.2 There shall be at least one responsible team, program, or staff role identified for each goal.

4.8.3 An Agency shall respond in a timely and effective manner to any Corrective Action Plan (or equivalent) approved by the Department(s).

4.9 Required Event Reporting

4.9.1 Individual Complaints, Grievances, and Individual Service Appeals

4.9.1.1 The Agency shall have policies and procedures to address individual complaints, grievances, and appeals that are consistent with requirements established by the Agency of Human Services, and the Department of Vermont Health Access (DVHA).

4.9.1.1.1 All grievances and individual service appeals shall be submitted to the Department of Vermont Health Access Warehouse within 14 calendar days of receipt

4.9.1.2 Complaints, grievances, and individual service appeals shall be reviewed regularly, including in aggregate, to identify and address any trends. At a minimum reviewers will include:

4.9.1.2.1 The Board of Directors (or equivalent), per 4.6.1.12

4.9.1.2.2 Local Program Standing Committees, per

4.7.3.1.2.5

4.9.1.2.3 State Program Standing Committees, per 6.2.1.8

4.9.1.2.4 The Department of Mental Health and Department of Disabilities, Aging and Independent Living

4.9.2 Critical Incident Reports

4.9.2.1 Agencies will follow the requirements set forth by Departments:

4.9.2.1.1 For mental health services, the Critical Incident Reporting Requirements

4.9.2.1.2 For intellectual/developmental disabilities services, the DAIL Developmental Disability Service Division and Adult Services Division Critical Incident Reporting Guidelines

4.10 Data Policies

4.10.1 The Agency shall have a technological infrastructure that enables cost-effective information collection, analysis, and telecommunication functions sufficient to:

4.10.1.1 Submit all required data in the format and timeline specified by DMH/DAIL;

4.10.1.2 Monitor and report on service costs, accessibility, service provision, case mix, quality assurance and improvement, and outcome activities as required by this rule and the Provider Agreement; and consistent with the DMH Mental Health Provider Manual, the Medicaid Manual for Developmental Disabilities Services and DDS D Encounter Data Submission Guidance for Home and Community-Based Services as appropriate; and

4.10.1.3 Support high quality and responsive service provision with the capacity to monitor the services delivered by contracted service providers, and/or persons who share-manage, consistent with this rule, the Provider Agreement, and the DMH Mental Health Provider Manual, the Medicaid Manual for Developmental Disabilities Services, and DDS D Encounter Data Submission Guidance for Home and Community-Based Services, as appropriate.

4.10.2 The Agency will remain compliant with national standards such as the United States Core Data for Interoperability (USCDI) for data transmission to the State of Vermont. The Agency will support the State of Vermont's efforts in promoting interoperability by maintaining a USCDI baseline and continue to raise the baseline as the standard evolves.

4.11 Local Community Services Plan

4.11.1 Each Designated Agency shall determine the need for community mental health and developmental disability services within the area served by the Agency and shall thereafter prepare a local community services plan which describes the methods by which the Agency will provide those services.

4.11.1.1 Community service plans should include developmental care core services referenced in DAIL's System of Care Plan; the following core mental health services: crisis services, outpatient mental health and substance use services, person- and family- centered treatment planning, community-based mental health care for veterans, targeted care management, psychiatric

rehabilitation services, and screening, diagnosis, and risk assessment; and other services identified as necessary for the local community. If a core service is not included in the local community services plan, the Agency shall identify the reason for the omission in their community services plan.

4.11.1.2 The plan shall include a schedule for the anticipated provision of new or additional services and shall specify the resources which are needed by and available to the Agency to implement the plan.

4.11.1.3 The community services plan shall be reviewed annually.

4.11.2 The board shall consult with the following groups to determine the priorities of needs for community mental health and developmental disability services:

4.11.2.1 the Commissioners,

4.11.2.2 Individuals receiving services and their families and/or guardians for each population served,

4.11.2.3 Local Program Standing Committees,

4.11.2.4 Specialized Services Agencies,

4.11.2.5 Other organizations representing persons receiving services, including other governmental or private agencies that provide community services to the people served by the Agency

4.11.3 The plan shall encourage utilization of existing agencies, professional personnel, and public funds at both State and local levels in order to improve the effectiveness of mental health and developmental disability services and to prevent unnecessary duplication of expenditures.

4.12 Personnel Policies

4.12.1 The Agency shall have written personnel policies and procedures that promote high quality services.

4.12.1.1 The Agency shall employ qualified personnel who are assigned duties and responsibilities that are appropriate to their level of training, education, and experience, and are supervised accordingly.

4.12.1.2 The Agency shall have written policies and procedures for

staff evaluation that include regular supervisory review and shall demonstrate that these policies and procedures are followed.

4.12.1.3 The Agency shall have a position description for each employee that clearly delineates the functions for which the employee will be held accountable and to whom they report. The position description shall also describe the education and experience required for the position.

4.12.1.4 The Agency shall have written policies prohibiting discrimination as described in 4.3.3.1.

4.12.2 Staff Training

4.12.2.1 The Agency shall develop a training plan for all staff and sub-contractors. The training plan may have different expectations for different staff roles. The plan shall be updated annually for developmental disability services and at least every three years for mental health services. Training shall address:

4.12.2.1.1 Cultural responsiveness with consideration for groups identified in 4.3.3.1;

4.12.2.1.2 Person-centered and family-centered, recovery-oriented, evidence-based and trauma-informed care;

4.12.2.1.3 Primary care/co-occurring mental health/substance use integration;

4.12.2.1.4 Non-physical intervention and de-escalation techniques;

4.12.2.1.5 Risk assessment, suicide prevention and suicide response; and

4.12.2.1.6 The roles of families and peers.

4.12.2.1.7 The Continuity of Services Plan – see section 4.16

4.12.2.2 The Agency shall provide orientation training to new staff and document this training.

4.12.2.3 The Agency shall include individuals and/or families in the design, delivery, and evaluation of training for staff, as appropriate

- 4.12.2.4 Agencies shall implement training for staff consistent with the requirements included in Health Care Administrative Rule 7.100 titled “Disability Services-Developmental Disabilities “ and/or those listed in the DMH Mental Health Provider Manual, as appropriate.

4.13 Individual Confidentiality Policies

4.13.1 The Agency shall have written policies and procedures that protect the confidentiality of individual information, consistent with applicable state and federal regulations, including but not limited to:

- 4.13.1.1 Language in staff and contracted service providers' contracts that explicitly states expectations about the confidentiality of service or care plan information.
- 4.13.1.2 Written policies and procedures for assuring informed consent.
- 4.13.1.3 Written policies and procedures that safeguard medical records and other individual information and adhere to all applicable confidentiality policies.

4.14 Individual Rights

4.14.1 The Agency shall have a written policy ensuring the rights of all individuals are observed consistent with state and federal law, including 18 V.S.A. § 8728, as well as the State System of Care Plan for DAIL, and the DMH Mental Health Provider Manual, and those identified in this rule.

4.14.2 Additionally, the Agency shall ensure that individuals are afforded the rights listed below.

4.14.3 General Rights

- 4.14.3.1 The individual has the right to be informed of their rights at intake and/or initial evaluation, as evidenced by the individual (or representative's) signature. Exceptions may be made for no signature when thoroughly documented with a rationale;
- 4.14.3.2 The right to be treated with dignity and respect by all staff;
- 4.14.3.3 The right to participate in decision making regarding services, treatment plans, ongoing supports, and practices;

and

4.14.3.4 The right to information that is needed to plan appropriate service and supports.

4.14.4 Privacy Rights

4.14.4.1 Individuals shall have the right to privacy consistent with applicable law, including HIPAA (Pub. L. No. 104-191, 110 Stat. 1936 (1996)), 42 CFR Part 2, and patient privacy requirements specific to the care of minors required by 18 V.S.A. §7103.

4.14.4.2 Individuals have the right to be informed of the limitations of privacy and confidentiality.

4.14.5 Access to Services

4.14.5.1 Individuals have the right to receive information about eligibility criteria, practitioner qualifications, practice guidelines, and available services and programs regardless of whether they are offered by the Agency.

4.14.5.2 Individuals have the right to receive treatment and services in the most integrated, least restrictive setting appropriate to their needs.

4.14.5.3 Individuals have the right to a comprehensive service plan that incorporates coordination with other relevant Agencies/systems if desired.

4.14.6 Personal Liberty and Autonomy

4.14.6.1 Individuals or their guardian have the right to name who their natural supports are, and to name those natural supports they do not want from participating in their supports.

4.14.6.2 Individuals or their guardian have the right to create Advanced Directive(s) and have support to create them, if desired.

4.14.6.3 Individuals or their guardian have the right to refuse or terminate services, providers, and/or medication, except where required by court order.

4.14.6.4 Individuals or their guardian have the right to voice complaints, grieve treatment and services, and/or appeal decisions made by an Agency without negative consequences.

4.14.6.5 Individuals or their guardian have the right to all legal protection and due process for status as an outpatient and inpatient individual, both voluntary and involuntary, as defined under Vermont law.

4.15 Accessibility

4.15.1 The Agency shall conduct its business and ensure service delivery in a way that complies with the Americans with Disabilities Act (ADA) and meets the following requirements:

4.15.1.1 Accessible parking, entrances, private meeting space and bathrooms shall be available in each building that is open to the public and/or used for the provision of services. This does not apply to private homes or apartments.

4.15.1.2 The inclusion of transportation needs to access necessary supports and services must be included in the development of an individual's service plan.

4.15.1.3 Information and communication shall be provided to individuals and/or their authorized representatives in a format that is understandable to the individual applying for or accessing services.

4.15.1.4 Written policies and procedures shall be developed that provide for other accommodations, as needed, and as determined by the needs of the individual.

4.16 Continuity of Services Plan

4.16.1 Each Designated Agency shall have a written plan for continuity of care in the event of the Agency's voluntary or involuntary closure; a disaster; unanticipated service interruptions; relocation of an individual; or transfer of an individual to another provider. The plan shall account for:

4.16.1.1 Orderly and timely transfer of individuals to other service providers, or referral.

- 4.16.1.2 Notification to individuals, staff, and community partner organizations of any upcoming closure and transition plans for continuity of care.
- 4.16.1.3 Notification to the Department(s) no fewer than 90 days prior to closure to discuss the rationale for closure and plans for continuity of care.
- 4.16.1.4 Transfer of individual records to the appropriate service provider.
- 4.16.1.5 Ensuring that individual records are secured and maintained in accordance with State and Federal regulations.
- 4.16.1.6 To the extent feasible, identify alternative locations and methods to sustain service delivery and access to medications during emergencies and disasters.
- 4.16.1.7 At a minimum, the Designated Agency shall review its Continuity of Care Plan annually and update it if needed.
- 4.16.1.8 The Department(s) may request to review a Designated Agency's Continuity of Care Plan at any time.

4.17 Individual Records

- 4.17.1 The Agency will document services in compliance with federal and state guidelines and practice standards including the Mental Health Provider Manual and the Vermont Medicaid Manual for Developmental Disabilities Services.
- 4.17.2 Individual records shall reflect the delivery of clinical care, specifically that it is strengths-based, person-centered and family-centered (for youth, as appropriate), recovery-oriented, evidence-based, and trauma-informed.
- 4.17.3 Agencies shall have internal auditing practices in place for a rotating, representative subset of clinical records.
- 4.17.4 DAIL/DMH shall maintain file review criteria with agencies pertinent to the programs being monitored.

4.17.4.1 In accordance with the 21st Century Cures Act, individuals shall be given access to their health information in the electronic health record without charge, if requested.

4.18 Program Budget and Fiscal Policies

4.18.1 An Agency shall comply with the requirements of 18 V.S.A. § 8910.

4.18.2 The Agency shall have fiscal management practices that demonstrate the following:

4.18.2.1 Fiscal solvency, as demonstrated by the ability to meet payroll and pay bills in a timely fashion;

4.18.2.2 Medicaid certification;

4.18.2.3 A published fee schedule, for DDS services this requirement goes into effect July 1, 2025;

4.18.2.4 The Agency shall make every reasonable effort to collect all fees from individuals and third-party payors;

4.18.2.5 Reliable monitoring of billing and expenditures versus revenues by individual, by staff, by service, by program, and by service provider, in accordance with generally accepted accounting principles (GAAP);

4.18.2.6 Accounting practices in accordance with DMH/DAIL standards and procedures including, at a minimum, the composite balance sheet, and the composite statement and program statements of revenue and expense;

4.18.2.7 An annual financial and compliance audit performed by an independent public accountant in accordance with the department's Audit Guide and all applicable State and Federal laws, regulations, policies and procedures;

4.18.2.8 Adequate fire, personal, professional and general liability, board/officer insurance coverage within guidelines set by DMH/DAIL;

4.18.2.9 Efficient administrative practices, including, but not limited to, fiscal, policy, and procedures;

4.18.2.10 An Agency may receive funds from sources other than the DMH/DAIL to carry out its duties for the

population(s) whom they are designated to serve by DMH/DAIL. Funds received from such sources shall be identified to DMH/DAIL; and

4.18.2.11 An Agency shall identify and report all related-party transactions within its organization to the Commissioner, including the nature of the relationship and transaction, and the dollar amounts involved.

4.19 Information Technology (IT) Policies

4.19.1 The Agency shall have a technological infrastructure that enables cost effective information collection, analysis, and telecommunication functions required to:

4.19.1.1 Protect confidentiality of individuals when data are transferred to the Department(s) and/or other entities in adherence with, as indicated:

4.19.1.1.1 the Health Insurance Portability and Accountability Act (HIPAA);

4.19.1.1.2 the Family Educational Rights and Privacy Act (FERPA)

4.19.1.1.3 42 CFR Part 2

4.19.1.2 Ensure that data is securely kept, in compliance with Agency of Human Services (AHS) policy²; and

4.19.1.3 Ensure cybersecurity through alignment with Agency of Digital Services (ADS) security standards. For more information, please visit:
<https://digitalservices.vermont.gov/cybersecurity/cybersecurity-standards-and-directives>

5.0 Specialized Service Agencies

5.1 Specialized service agencies may be local, regional, or statewide.

5.2 Responsibilities of the Specialized Service Agency will be determined by the Commissioner during the development of the Provider Agreement and shall include clearly delineated roles and responsibilities between the specialized service Agency and the Designated Agency in the relevant geographic area(s).

² [Rules, Policies, Procedures & Guidance Documents | Agency of Human Services \(vermont.gov\)](#)

5.3 Specialized service agencies shall meet the same requirements as a Designated Agency, with the following exceptions:

5.3.1.1 Specialized service agencies shall not be responsible for assuring that a comprehensive and responsive array of services is available within the designated geographical region.

5.3.1.2 Specialized service agencies shall not be responsible for determining the service needs of the community for each population it serves or developing a plan to address the identified needs. They will be responsible, however, for working collaboratively with the Designated Agency in the development of the Local Community Services Plan.

5.3.1.3 Other requirements may be waived at the discretion of the Commissioner.

6.0 State Program Standing Committees

6.1 Standing Committees. here shall be a State Program Standing Committee (State Committee) for: 1) Adult Mental Health; 2) Child, Adolescent, and Family Mental Health; and 3) Developmental Disabilities services.

6.1.1 The Advisory Board created by 18 V.S.A. § 8733 shall be the State Committee for Developmental Disabilities services. The State Committee shall comply with the requirements of that section.

6.1.2 The State Committee for Mental Health shall comply with the following requirements:

6.1.2.1 The State Committee(s) shall be comprised of between 10 and 15 members.

6.1.2.2 A majority of members shall be disclosed individuals with lived experience and/or family members of the disability group that they represent.

6.1.2.2.1 For the Adult Mental Health State Committee, this shall be current or former adult individuals with lived experience

6.1.2.2.2 For the Child, Adolescent, and Family Mental Health State Committee, this shall be either current or former youth individuals with lived experience, or family members of current or former youth individuals with lived experience

6.1.2.3 All members shall be appointed by the Governor or designee for terms of three years.

6.2 State Committee Duties and Responsibilities

State Committee functions shall include:

6.2.1.1 Assisting in the identification of candidates for the State Committee;

6.2.1.2 State Committee meeting planning and facilitation;

6.2.1.3 Providing recommendations to the Department(s) regarding agency initial and redesignation, which will include:

6.2.1.3.1 reviewing aggregated data and reports provided by the Department, and

6.2.1.3.2 meeting with representatives from the Agency

6.2.1.4 Ranking and recommending priority areas of focus for the statewide system of care, to be updated at least every three years. The committee will focus on these priority areas when planning agendas and engaging in work;

6.2.1.4.1 In addition to the formal recommendation process, the committee will discuss concerns about the system of care as they arise

6.2.1.4.2 As needed, the committee will formalize concerns to share with Commissioner(s) as appropriate

6.2.1.5 Providing to the Department recommendations for candidates for classified leadership positions involved in the Agency Designation process; and

6.2.1.6 Evaluation of Quality: The Committees shall advise the Department on the quality and responsiveness of services offered statewide.

6.2.1.7 Department Policy: The Committees shall review and recommend new policy that pertains to or significantly influences services for the population they represent.

6.2.1.8 Grievances & Individual Service Appeals: The Committees shall review aggregate information on the grievances and individual service appeals at least annually.

7.0 Provisional Designation, De-Designation, and Cancellation of Contract

7.1 Provisional Designation

7.1.1 An Agency may be placed on provisional status at any time, following a

determination by the Commissioner that the Agency has:

7.1.1.1 Failed to comply with this rule or other applicable regulations;

7.1.1.2 Knowingly disregarded or neglected policies and/or practices that could endanger the health or safety of individuals, their family members, employees, or the public;

7.1.1.3 Violated an individuals' human or civil rights;

7.1.1.4 Failed to implement one or more items on a Corrective Action Plan (or equivalent) as accepted by the Department(s).

7.1.1.5 Pattern of failed implementation decisions resulting from grievance and/or individual service appeals processes;

7.1.1.6 Engaged in severe fiscal irresponsibility, or

7.1.1.7 Falsified data/record keeping.

7.1.2 The notification of provisional status from the Commissioner to the Agency shall include:

7.1.2.1 The reasons for such action;

7.1.2.2 The conditions under which DMH/DAIL may continue to purchase services from the Agency while under provisional status; and

7.1.2.3 The requirements for a Plan of Corrective Action in order to be reconsidered for re-designation, including:

7.1.2.3.1 The specific areas needing correction

7.1.2.3.2 The timeframes within which the elements of the plan of correction will be addressed, not to exceed 180 days.

7.1.2.3.3 The criteria upon which the Plan of Corrective Action, and the subsequent report on implementation, will be evaluated for acceptability by the Commissioner

7.1.3 The notification of provisional status may serve as the notification of intent to de-designate an Agency or cancel a specialized service

Agency contract.

7.1.4 The Commissioner may place an Agency on provisional status without intent to de-designate or cancel the specialized service contract.

7.1.5 Corrective Action Plan

7.1.5.1 If the Commissioner determines that an Agency fails to comply with this Rule, the Agency's service plan, or otherwise fails to satisfactorily meet the needs of individuals, the Commissioner shall provide a written notice to the Agency that outlines the deficiencies and the potential for termination of designated status.

7.1.5.2 The Agency shall submit a Plan of Corrective Action (Plan) to the Commissioner no later than thirty (30) days after receipt of the Commissioner's notification of provisional status.

7.1.5.3 If the Plan is deemed acceptable by the Commissioner, the Agency provisional status will be extended for the timeframe specified within the Plan.

7.1.5.4 If the Plan is deemed not acceptable by the Commissioner, the Commissioner shall notify the Agency, in writing, of intent to proceed with de-designation or contract cancellation or the need for additional information. This extension for additional information will be no longer than 15 days.

7.1.5.5 At the end of the specified timeframe, the Agency shall submit a report to the Commissioner documenting that the corrections were made in accordance with the Plan.

7.1.5.6 If the Corrective Actions are not acceptable by the Commissioner, the Commissioner shall notify the Agency, in writing, of intent to proceed with de-designation or contract cancellation or continuation of provisional status.

7.1.5.7 Continuation of Provisional status may be granted for a period not to exceed 180 days and will only be granted in situations in which the Agency is making significant gains and is expected to meet or exceed all requirements within the additional timeframe granted.

7.1.6 While an Agency is under provisional status for a specific population, DMH/DAIL may:

7.1.6.1 Suspend or amend terms of the annual contract or other service agreements between DMH/DAIL and the Agency, as allowed by contract.

7.1.6.2 Contract with other agencies to ensure uninterrupted service provision and quality.

7.1.6.3 Initiate the process to identify a new Designated Agency for that geographic area.

7.1.6.4 Take additional actions, as determined necessary by the Commissioner, to protect the well-being of individuals.

7.2 De-Designation and Cancellation of Specialized Service Agency Contract

7.2.1 The Commissioner may initiate the process of Agency De-designation (for a Designated Agency) or contract cancellation (for a Specialized Service Agency) if:

7.2.1.1 The Agency has been placed on provisional status and has exhibited the unwillingness or inability to improve performance as specified in the Plan of Corrective Action and within the timeframes established by DMH/DAIL; or

7.2.1.2 The Commissioner determines an Agency meets one or more of the criteria identified in Section 7.1.1.

7.2.2 The date for de-designation or contract cancellation shall be determined by the Commissioner and shall be dependent on the actions necessary to ensure that individuals within the geographic area of the Agency continue to receive the supports and services that they need.

7.2.3 The Agency to be de-designated or have its contract cancelled shall be notified in writing of:

7.2.3.1 The effective date for de-designation or contract cancellation;

7.2.3.2 The circumstances by which DMH/DAIL will continue to purchase services through the Agency until de-designation or contract cancellation is effective; and

7.2.3.3 The actions DMH/DAIL will undertake to replace the Agency's functions and ensure high-quality service provision to persons living in the geographical area.

7.2.4 The Agency to be de-designated or have its contract cancelled shall inform its current individuals of the change in the Agency's status, and

provide them with information about future arrangements, as agreed upon with the Department(s)

7.2.5 At any time during the de-designation process for a specific population, DMH/DAIL may:

7.2.5.1.1 Suspend or amend terms of the annual contract or other service agreements between DMH/DAIL and the Agency, as allowed by contract.

7.2.5.1.2 Take additional actions, as determined necessary by the Commissioner, to protect the well-being of service individuals.

8.0 Appeals

8.1 A Designated Agency that has been notified by the Commissioner of the intent to proceed with de-designation, or to not grant initial designation status, shall have the right to appeal the decision.

8.2 Any specialized service agency that has been notified by the Commissioner of the intent to cancel or not renew its contract, or substantially modify its role and responsibilities, shall have the right to appeal the decision.

8.3 Notice of Appeal. A written Notice of Appeal, stating the grounds for such appeal, shall be filed with the Commissioner within 10 days following the Agency's receipt of notification from the Commissioner of the intent to de-designate the Agency, cancel or not renew Agency contracts or not to designate the Agency initially. Agencies do not have the right to appeal decisions related to placement on provisional status.

8.4 Notice of hearing. As soon as practicable, a date certain shall be set for the appeal hearing, with notice to all parties. Within forty-five (45) days of the filing of the Notice of Appeal, a hearing shall be conducted by the Commissioner or their designee (hereafter "Commissioner"). The purpose of the hearing shall be to ensure that the Commissioner has considered all pertinent information available prior to making a final decision regarding the Agency's status.

8.5 Disclosure of Information. Upon request of any party related to the appeal, the Department shall promptly provide the party with all public documents and records it relied upon in reaching its decision.

8.6 Conduct of hearing. At the hearing, the parties may present evidence and witnesses and be represented by counsel. The record of the hearing shall include a recording of the hearing, records relied upon, and any other information deemed by the Commissioner to be necessary for the proceeding. The Department of Mental

Health and/or the Department of Disabilities, Aging, and Independent Living shall retain this record per the State of Vermont Record Retention schedule. The proceedings shall be open to the public. When public access threatens confidentiality rights, any party to the proceeding may seek appropriate measures to protect confidentiality, and the Commissioner shall take necessary steps to protect confidentiality.

- 8.7** Notice of decision. The Commissioner shall issue a final written decision within thirty (30) days of the hearing based upon the evidence presented orally and in writing. The decision shall be sent to all parties.
- 8.8** If any of the parties wish to appeal the decision of the Commissioner, they may submit an appeal, in writing, to the Secretary of the Agency of Human Services within ten (10) days of receipt of the Commissioner's decision. The Secretary of the Agency of Human Services shall base their review on the record presented to the Commissioner.
- 8.9** The Secretary of the Agency of Human Services shall issue a written decision within 30 days. The decision of the Secretary of the Agency of Human Services will be the final action of the Agency. If further review is available to an aggrieved party, it shall be brought in the court authorized to review civil matters within 10 days of receipt of the final Agency of Human Services action and shall be based upon the record established at the hearing before the Commissioner and the decision of the Secretary of the Agency of Human Services

9.0 Investigations and Enforcement

- 9.1** The Departments will routinely review agency operations and services offered or supported by the Designated or Specialized Service Agency to ensure that they are operated in compliance with department rules, regulations, contract/grant requirements, division mission, and the local service plan. These reviews may include site visits and may or may not be announced in advance.
- 9.2** The Departments may additionally investigate of actions of an Agency in response to concerns or feedback or as a result of information received from other sources. Such investigations shall include direct communication and deliberation with the entity filing the concerns or feedback or providing the information to ensure that the Department has accurate and complete information. Agency reviews may or may not be announced in advance.
- 9.3** Findings of these reviews will be considered in the re-designation and contract renewal process.

The Vermont Statutes Online

The Statutes below include the actions of the 2024 session of the General Assembly.

NOTE: The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

Title 3 : Executive

Chapter 025 : Administrative Procedure

Subchapter 001 : GENERAL PROVISIONS

(Cite as: **3 V.S.A. § 801**)

§ 801. Short title and definitions

(a) This chapter may be cited as the “Vermont Administrative Procedure Act.”

(b) As used in this chapter:

(1) “Agency” means a State board, commission, department, agency, or other entity or officer of State government, other than the Legislature, the courts, the Commander in Chief, and the Military Department, authorized by law to make rules or to determine contested cases.

(2) “Contested case” means a proceeding, including but not restricted to rate-making and licensing, in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing.

(3) “License” includes the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law.

(4) “Licensing” includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.

(5) “Party” means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

(6) “Person” means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.

(7) “Practice” means a substantive or procedural requirement of an agency, affecting one or more persons who are not employees of the agency, that is used by the agency in the discharge of its powers and duties. The term includes all such requirements, regardless of whether they are stated in writing.

(8) “Procedure” means a practice that has been adopted in writing, either at the election of the agency or as the result of a request under subsection 831(b) of this title. The term includes any practice of any agency that has been adopted in writing, whether or not labeled as a procedure, except for each of the following:

(A) a rule adopted under sections 836-844 of this title;

(B) a written document issued in a contested case that imposes substantive or procedural requirements on the parties to the case;

(C) a statement that concerns only:

(i) the internal management of an agency and does not affect private rights or procedures available to the public;

(ii) the internal management of facilities that are secured for the safety of the public and the individuals residing within them; or

(iii) guidance regarding the safety or security of the staff of an agency or its designated service providers or of individuals being provided services by the agency or such a provider;

(D) an intergovernmental or interagency memorandum, directive, or communication that does not affect private rights or procedures available to the public;

(E) an opinion of the Attorney General; or

(F) a statement that establishes criteria or guidelines to be used by the staff of an agency in performing audits, investigations, or inspections, in settling commercial disputes or negotiating commercial arrangements, or in the defense, prosecution, or settlement of cases, if disclosure of the criteria or guidelines would compromise an investigation or the health and safety of an employee or member of the public, enable law violators to avoid detection, facilitate disregard of requirements imposed by law, or give a clearly improper advantage to persons that are in an adverse position to the State.

(9) “Rule” means each agency statement of general applicability that implements, interprets, or prescribes law or policy and that has been adopted in the manner provided by sections 836-844 of this title.

(10) “Incorporation by reference” means the use of language in the text of a regulation that expressly refers to a document other than the regulation itself.

(11) “Adopting authority” means, for agencies that are attached to the Agencies of Administration, of Commerce and Community Development, of Natural Resources, of Human Services, and of Transportation, or any of their components, the secretaries of those agencies; for agencies attached to other departments or any of their components, the commissioners of those departments; and for other agencies, the chief officer of the agency. However, for the procedural rules of boards with quasi-judicial powers, for the Transportation Board, for the Vermont Veterans’ Memorial Cemetery Advisory Board,

and for the Fish and Wildlife Board, the chair or executive secretary of the board shall be the adopting authority. The Secretary of State shall be the adopting authority for the Office of Professional Regulation.

(12) “Small business” means a business employing no more than 20 full-time employees.

(13)(A) “Arbitrary,” when applied to an agency rule or action, means that one or more of the following apply:

(i) There is no factual basis for the decision made by the agency.

(ii) The decision made by the agency is not rationally connected to the factual basis asserted for the decision.

(iii) The decision made by the agency would not make sense to a reasonable person.

(B) The General Assembly intends that this definition be applied in accordance with the Vermont Supreme Court’s application of “arbitrary” in *Beyers v. Water Resources Board*, 2006 VT 65, and *In re Town of Sherburne*, 154 Vt. 596 (1990).

(14) “Guidance document” means a written record that has not been adopted in accordance with sections 836-844 of this title and that is issued by an agency to assist the public by providing an agency’s current approach to or interpretation of law or describing how and when an agency will exercise discretionary functions. The term does not include the documents described in subdivisions (8)(A) through (F) of this section.

(15) “Index” means a searchable list of entries that contains subjects and titles with page numbers, hyperlinks, or other connections that link each entry to the text or document to which it refers. (Added 1967, No. 360 (Adj. Sess.), § 1, eff. July 1, 1969; amended 1981, No. 82, § 1; 1983, No. 158 (Adj. Sess.), eff. April 13, 1984; 1985, No. 56, § 1; 1985, No. 269 (Adj. Sess.), § 4; 1987, No. 76, § 18; 1989, No. 69, § 2, eff. May 27, 1989; 1989, No. 250 (Adj. Sess.), § 88; 2001, No. 149 (Adj. Sess.), § 46, eff. June 27, 2002; 2017, No. 113 (Adj. Sess.), § 3; 2017, No. 156 (Adj. Sess.), § 2.)

The Vermont Statutes Online

The Statutes below include the actions of the 2024 session of the General Assembly.

NOTE: The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

Title 18 : Health

Chapter 207 : Community Mental Health and Developmental Services

(Cite as: 18 V.S.A. § 8907)

§ 8907. Designation of agencies to provide mental health and developmental disability services

(a) Except as otherwise provided in this chapter, the Commissioners of Mental Health and of Disabilities, Aging, and Independent Living shall, within the limits of funds designated by the General Assembly for this purpose, ensure that community services to persons with a mental condition or psychiatric disability and persons with a developmental disability throughout the State are provided through designated community mental health agencies. The Commissioners shall designate public or private nonprofit agencies to provide or arrange for the provision of these services.

(b) Within the limits of available resources, each designated community mental health or developmental disability agency shall plan, develop, and provide or otherwise arrange for those community mental health or developmental disability services that are not assigned by law to the exclusive jurisdiction of another agency and that are needed by and not otherwise available to persons with a mental condition or psychiatric disability or a developmental disability or children and adolescents with a severe emotional disturbance in accordance with the provisions of 33 V.S.A. chapter 43 who reside within the geographic area served by the agency. (Added 1979, No. 108 (Adj. Sess.), § 2; amended 1987, No. 264 (Adj. Sess.), § 11; 2005, No. 174 (Adj. Sess.), § 47; 2007, No. 15, § 15; 2013, No. 96 (Adj. Sess.), § 115; 2023, No. 6, § 218, eff. July 1, 2023.)

The Vermont Statutes Online

The Statutes below include the actions of the 2024 session of the General Assembly.

NOTE: The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

Title 18 : Health

Chapter 207 : Community Mental Health and Developmental Services

(Cite as: **18 V.S.A. § 8911**)

§ 8911. Powers of the Commissioners

(a) If the Commissioners after discussion with the board of a community mental health and developmental disability agency determine that the local community services plan required by section 8908 of this chapter is inadequate to meet the needs of persons with a mental condition or psychiatric disability or with developmental disabilities or children and adolescents with a severe emotional disturbance in accordance with the provisions of 33 V.S.A. chapter 43 in the area served by a mental health and developmental disability agency or that an agency has, for reasons other than lack of resources, failed or refused to implement an otherwise adequate plan, the Commissioners shall take one or more of the following steps:

(1) Offer technical assistance to the agency.

(2) Actively seek out and designate another agency to provide the needed services.

(3) Directly provide or arrange the needed services if it appears that the services will not otherwise be available within a reasonable period of time. The remedies specified in this subsection shall be in addition to any other rights and remedies that are available to the Commissioner under State or federal law.

(b) Until May 1, 1998, no agency that has been designated as a community mental health agency may lose its designation without first being provided with notice and an opportunity for hearing in accordance with the provisions of 3 V.S.A. §§ 809-813. After May 1, 1998, no agency may lose its designation except in accordance with new rules adopted for that purpose under the provisions of this subsection. Notwithstanding any other provisions to the contrary in 3 V.S.A. chapter 25, the Commissioner shall, in consultation with the designated provider system and consumer groups, develop proposed rules setting forth the standards and procedures for designation, redesignation, and loss of designation, and provide for six months' notice of intent to

revoke an agency's designation. The proposed rules shall also provide standards with measurable performance-based criteria and a streamlined appeals process. On or before December 31, 1997, the Commissioner shall file and hold public hearings on the proposed rules as provided in 3 V.S.A. §§ 838, 839, and 840 in accordance with 3 V.S.A. chapter 25. The Commissioner shall file the final proposed rules with the General Assembly on or before January 15, 1998. Unless disapproved by act of the General Assembly on or before April 1, 1998, the Commissioner may adopt the rules by filing with the Secretary of State, which rules shall take effect on May 1, 1998.

(c) The board of directors of a community mental health and developmental disability agency will be given a six-month notice of any intent on the part of the Commissioners to terminate its designated status. The Commissioners shall provide a written notice that outlines the performance based rationale associated with such intent. The board of directors shall have six months to review the Commissioners' stated concerns and implement a corrective action plan. The board of directors shall also be informed, in writing, of current standards and procedures regarding appeal processes. (Added 1979, No. 108 (Adj. Sess.), § 6; amended 1987, No. 264 (Adj. Sess.), § 13; 1997, No. 61, § 140a; 2005, No. 174 (Adj. Sess.), § 47; 2013, No. 96 (Adj. Sess.), § 115.)

The Vermont Statutes Online

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Title 18 : Health

Chapter 207 : Community Mental Health and Developmental Services

(Cite as: **18 V.S.A. § 8913**)

§ 8913. Minimum program standards and other regulations

(a) The Commissioners shall establish minimum program standards for services provided by community mental health and developmental disability agencies. Minimum program standards shall specify the basic activities and resources that are necessary for the implementation of such programs.

(b) The procedure for establishing such standards shall be in accordance with 3 V.S.A. chapter 25. (Added 1979, No. 108 (Adj. Sess.), § 8; amended 2005, No. 174 (Adj. Sess.), § 47.)

The Vermont Statutes Online

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Title 18 : Health

Chapter 204A : Developmental Disabilities Act

(Cite as: **18 V.S.A. § 8726**)

§ 8726. Application for services; rules

(a) The Department shall adopt rules that include the following:

(1) Criteria for determining whether an applicant is a person with a developmental disability.

(2) A format and procedures, for processing applications for services, including time frames, emergency procedures, and notice of determination.

(3) Procedures and time frames for periodic reviews of a person's eligibility and continuing need for services.

(4) Standards and procedures for billing.

(5) Complaints and appeals, including notice as required in section 8727 of this title.

(b) The Department shall adopt rules that include the following:

(1) Certification standards and procedures for programs for people with developmental disabilities.

(2) Training standards for staff.

(3) Standards for training and supervision of personnel who perform special care procedures.

(c) Any person with a developmental disability or a family of a person with a disability shall be provided with:

(1) Timely information and referral to community and governmental resources.

(2) An opportunity to request services.

(3) Upon request, an assessment of the most appropriate supports and resources

for their needs and choices.

(4) Services and funding within the Department's available resources in accordance with both the system of care plan and the person's or family's written plan of service.

(d) Any person with a developmental disability or a family who is receiving services on July 1, 1996, shall continue to receive services consistent with their needs and the system of care plan. (Added 1995, No. 174 (Adj. Sess.), § 1; amended 2023, No. 6, § 213, eff. July 1, 2023.)

The Vermont Statutes Online

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Title 18 : Health

Chapter 204A : Developmental Disabilities Act

(Cite as: 18 V.S.A. § 8730)

§ 8730. Service providers; certification

The Department shall adopt rules that provide for certification standards and procedures for programs for people with developmental disabilities funded by the Department. The Department shall not certify a program unless it adheres to the principles in section 8724 of this title and provides recipients with the rights in section 8728 of this title. (Added 1995, No. 174 (Adj. Sess.), § 1.)

The Vermont Statutes Online

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Title 18 : Health

Chapter 204A : Developmental Disabilities Act

(Cite as: 18 V.S.A. § 8731)

§ 8731. Training

(a) For the purposes of this section, “staff” means any person who receives compensation to provide services to one or more recipients and includes the person’s supervisor. “Staff” does not include a family-directed respite worker.

(b) The Department shall ensure that all staff receive pre-service and in-service training consistent with the system of care plan. Family-directed respite staff shall receive pre-service and in-service training at the request of the family at no cost to the family. People with developmental disabilities and their families may participate in the training, including planning and delivery of that training.

(c) The Department shall adopt rules for training standards that ensure that individual support staff understand the philosophy and values that underlie the services and that they acquire the skills necessary to implement the purposes and principles of this subchapter and to address the individual needs of the person or family for whom they provide services.

(d) All staff and all family-directed respite workers shall be trained in the requirements of 33 V.S.A. chapter 69, relating to reports of abuse, neglect, and exploitation of elders or of adults who have a disability, and the requirements of 33 V.S.A. chapter 49, subchapter 2, relating to reports of suspected abuse or neglect of children. (Added 1995, No. 174 (Adj. Sess.), § 1; amended 2013, No. 96 (Adj. Sess.), § 113; 2023, No. 6, § 216, eff. July 1, 2023.)



Proposed Rules Postings

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Deadline For Public Comment

Deadline: Jul 17, 2024

The deadline for public comment has expired. Contact the agency or primary contact person listed below for assistance.

Rule Details

Rule Number:	24P020
Title:	Agency Designation.
Type:	Standard
Status:	Proposed
Agency:	Agency of Human Services
Legal Authority:	3 V.S.A. § 801(b)(11); 18 V.S.A. §§ 8907, 8911(b), 8913, 8726(b), 8730, and 8731(c).
Summary:	<p>The Rules on Agency Designation establish the requirements for community mental health services and intellectual/developmental disability services within distinct geographic areas of Vermont. This rule has not been updated since 2003. The proposed amendments focus on modernizing language, aligning with current policy and practice, aligning with other Administrative Rules for content and formatting, including direct language from statute, increasing clarity, increasing plain language, and simplifying and/or modernizing processes.</p> <p>Persons with a mental condition or psychiatric disability and persons with a developmental disability (per 18 V.S.A. § 8907); designated and specialized services agencies; other mental</p>
Persons Affected:	

health and disability services providers; Agency of Human Services departments, especially Department of Disabilities, Aging and Independent Living and Department of Mental Health; hospitals; health law, policy and related advocacy and community-based organizations and groups including the Office of Health Care Advocate.

Economic Impact: The rule does not increase or lessen an economic burden on any person or entity including no impact on the State's gross annualized budget in fiscal year 2025. The proposed amendments focus on updating and modernizing.

Posting date: Jun 05,2024

Hearing Information

Information for Hearing # 1

Hearing date: 07-10-2024 10:00 AM [ADD TO YOUR CALENDAR](#)

Location: Waterbury Complex, Ash Conference Room

Address: 280 State Drive

City: Waterbury

State: VT

Zip: 05676

Hearing Notes:

Information for Hearing # 2

Hearing date: 07-10-2024 10:00 AM [ADD TO YOUR CALENDAR](#)

Location: Virtually via MS Teams

Address: <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>

City: Meeting ID: 233 703 541 380 Passcode: aZm9nw Dial in by phone +1 802-828-7667,,499452086# United States, Montpelier

State: VT

Zip: n/a

Hearing Notes: <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting> Meeting ID: 233 703 541 380 Passcode: aZm9nw Dial in by phone +1 802-828-7667,,499452086# United States, Montpelier

Contact Information

Information for Primary Contact

PRIMARY CONTACT PERSON - A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE.

Level: Primary

Name: Ashley Johns

Agency: Agency of Human Services

Address: 280 State Drive

City: Waterbury

State: VT

Zip: 05676
Telephone: 802-585-9884
Fax: 802-241-0450
Email: ashley.johns@vermont.gov

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Website Address: <https://mentalhealth.vermont.gov/policy-and-legislative-resources/rules>

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SECONDARY CONTACT PERSON - A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON.

Level: Secondary
Name: Ashley Roy
Agency: Agency of Human Services
Address: 280 State Drive
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Fax: 802-241-0450
Email: ashley.roy@vermont.gov

[SEND A COMMENT](#)

Keyword Information

Keywords:

- Disability Services
- Mental Health
- Designated Agencies
- Specialized Service Agencies
- Agency Designation

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05676

Hearing Notes:

Information for Hearing # 2

Hearing date:

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Level: Primary

Name: Ashley Johns

Agency: Agency of Human Services

Address: 280 State Drive

City: Waterbury

State: VT

Zip: 05676
Telephone: 802-585-9884
Fax: 802-241-0450
Email: ashley.johns@vermont.gov

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Level: Secondary
Name: Ashley Roy
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Email: ashley.roy@vermont.gov

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Keyword Information

Keywords:

Disability Services
Mental Health
Designated Agencies
Specialized Service Agencies
Agency Designation

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	Vermont Lawyer (hunter.press.vermont@gmail.com)	Attn: Will Hunter

FROM: APA Coordinator, VSARA

Date of Fax: June 3, 2024

RE: The "Proposed State Rules " ad copy to run on

June 13, 2024

PAGES INCLUDING THIS COVER MEMO:

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If you have questions, or if the printing schedule of your paper is disrupted by holiday etc. please contact VSARA at 802-828-3700, or E-Mail sos.statutoryfilings@vermont.gov, Thanks.

PROPOSED STATE RULES

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By law, public notice of proposed rules must be given by publication in newspapers of record. The purpose of these notices is to give the public a chance to respond to the proposals. The public notices for administrative rules are now also available online at <https://secure.vermont.gov/SOS/rules/> . The law requires an agency to hold a public hearing on a proposed rule, if requested to do so in writing by 25 persons or an association having at least 25 members.

To make special arrangements for individuals with disabilities or special needs please call or write the contact person listed below as soon as possible.

To obtain further information concerning any scheduled hearing(s), obtain copies of proposed rule(s) or submit comments regarding proposed rule(s), please call or write the contact person listed below. You may also submit comments in writing to the Legislative Committee on Administrative Rules, State House, Montpelier, Vermont 05602 (802-828-2231).

Agency Designation.

Vermont Proposed Rule: 24P020

AGENCY: Agency of Human Services

CONCISE SUMMARY: The Rules on Agency Designation establish the requirements for community mental health services and intellectual/developmental disability services within distinct geographic areas of Vermont. This rule has not been updated since 2003. The proposed amendments focus on modernizing language, aligning with current policy and practice, aligning with other Administrative Rules for content and formatting, including direct language from statute, increasing clarity, increasing plain language, and simplifying and/or modernizing processes.

FOR FURTHER INFORMATION, CONTACT: Ashley Johns, Agency of Human Services, 280 State Drive, Waterbury, VT 05676 Tel: 802-585-9884 Fax: 802-241-0450, E-Mail: ashley.johns@vermont.gov. URL: <https://mentalhealth.vermont.gov/policy-and-legislative-resources/rules>.

FOR COPIES: Ashley Roy, Agency of Human Services, 280 State Drive, Waterbury, VT 05602 Tel: 802-585-5679 Fax: 802-241-0450 E-Mail: ashley.roy@vermont.gov.

Recovery Services Organization Certification Rule.

Vermont Proposed Rule: 24P021

AGENCY:

CONCISE SUMMARY: This rule establishes a certification process and provides certification requirements for Recovery Service Organizations that receive state or federal funding for the provision of recovery support services from the Department of Health (Department).

FOR FURTHER INFORMATION, CONTACT: Natalie Weill, Department of Health, 280 State Drive, Waterbury, VT 05671-8300 Tel: 802-863-7280 Fax: 802-951-1275 E-Mail: ahs.vdhrules@vermont.gov URL: <https://www.healthvermont.gov/laws-regulations/laws/public-comment>.

FOR COPIES: Brendan Atwood, Department of Health, 280 State Drive, Waterbury, VT 05671-8300 Tel: 802-863-7280 Fax: 802-951-1275 E-Mail: ahs.vdhrules@vermont.gov.

