RULES, REGULATIONS AND STANDARDS

FOR CERTIFICATION OF

CASE MANAGEMENT AGENCIES

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Elderly Affairs

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Section I. Certification Requirements

Part A. Preface

These standards supersede any and all prior rules, regulations and standards relating to the certification of agencies providing case management services promulgated pursuant to R.I.G.L. § 42-66-6.4. They have been promulgated to ensure that basic statutory requirements for serving frail elderly and adult disabled clients are met. In order to comply with these rules, regulations and standards, the agency must present sufficient evidence that the overall philosophy, objectives and services are responsive to the needs of those served; that the staff is adequate in number and properly trained to carry out the goals of the program; and that the physical plant meets safety and accessibility standards.

The issuance of a certificate requires compliance with these rules, regulations and standards. Under no circumstances does such a certificate commit the Department of Elderly Affairs or the State of Rhode Island to any funding of any program or agency.

Pursuant to the provisions of the Administrative Procedures Act, R.I.G.L. § 42-35-3, the following were given consideration in arriving at the standards: (a) alternative approaches to the standards; (b) duplication or overlap with other state regulations; and (c) significant economic impact. No alternative approach was identified; nor any duplication or overlap. Furthermore, the protection of the health, safety, and welfare of the public necessitates the adoption of the standards despite any economic impact which may be incurred as a result of these standards.

All questions arising out of these rules, regulations and standards shall be governed by the laws of the State of Rhode Island.

Part B. Statutory Authority.

Statutory authority for the present rules, regulations and standards is found in R.I.G.L. § 42-66.6.3(b): "The department shall make available to persons choosing home and/or community based care, a care management services program which will provide the individual with continued guidance, supervision and monitoring of the services procured by the client and periodic reassessment of the adequacy of the care plan in meeting the individual's long term care needs" and in R.I.G.L. § 42-66-6.4: "The director of the department of elderly affairs shall promulgate rules and regulations to implement this chapter."

Part C. Philosophy. The Rhode Island Department of Elderly Affairs was established in 1977 (R.I.G.L. § 42-66-1) in response to the growing needs of Rhode Island's older population. The Department's Mission is to provide the best possible network of supportive services to help older Rhode Islanders live in dignity, security and maximum independence.

Access, choice and quality assurance are the watchword of the Rhode Island Department of Elderly Affairs (RIDEA) in approving agencies to deliver services to our state's senior

citizens. RIDEA believes that a case management system with uniform standards based on a consumer-focused delivery of service will ensure that older adults receive quality and consistent care to meet their health, social and psychological needs. The local case manager respects the rights and preferences of the consumer and family, including their involvement in the care planning process. The local case management process empowers the consumer to make choices among available resources.

Case managers working with the community based at-risk older person face complex problems on a daily basis. They struggle with trying to balance the choice of the consumer, the need of the consumer, and the safety of the consumer. Many times, they are also faced with identifying services within the limitation of resources and the availability of services. The case manager works with consumers who have complex chronic conditions, acute medical conditions, disabilities, and psychosocial problems. Often times these consumers lack a network of caring family members or friends.

Commitment to providing quality based consumer service to the older at-risk population is a challenge for the case management system and highlights the importance of establishing standards of operation, guidelines for practice, specialized training, enhanced skills, and knowledge applicable to the provision of care.

Part D. Applicability. These rules, regulations and standards apply to all agencies and programs that receive any state or federal funding to provide case management (also called, care management) services to the elderly. All references within these rules and regulations are incorporated by reference and have the same force and effect as if promulgated herein. The provisions of these rules, regulations and standards do not apply to any agency or program certified or licensed by any appropriate state agency under other statutory authority. Questions regarding applicability of these rules, regulations and standards to particular programs, agencies or facilities should be addressed to the Director, Department of Elderly Affairs.

Part E. Certificate Required. No person, acting alone or jointly with any other person, shall establish, conduct or maintain a case (or care) management agency serving the elderly and receiving any state or federal funding to provide case (or care) management services in this state without a certificate in accordance with the requirements of R.I.G.L. § 42-66.6-1 through 4. and in conformance with the rules, regulations and standards herein. No agency and/or program shall represent itself as a case (or care) management agency serving the elderly and receiving any state or federal funding to provide case (or care) management or use the term case (or care) management or any other similar term in its title, advertising, publication or other form of communication, unless certified to offer case (or care) management services in accordance with the provisions herein.

Part F. Application for Certificate. An application for a certificate shall be made to the Department of Elderly Affairs upon forms provided by it and shall contain such information as the Department reasonably requires. Included shall be affirmative evidence of the applicant's ability to comply with the attached rules, regulations and standards as are lawfully prescribed herein.

Part G. Issuance and Transfer or Assignment of Certificate. Upon receipt of a completed application for a certificate, the Department shall issue a certificate if the applicant meets the requirements of R.I.G.L. § 42-66.6-2 and the rules, regulations and standards herein. A certificate issued hereunder shall be the property of the state and loaned to such certified entity. The certificate shall be kept posted in a conspicuous place on the premises. Each certificate shall be issued only for the premises and persons named in the application and shall not be transferable or assignable except with the written approval of the Department.

Part H. Expiration and Renewal of Certificate. A certificate, unless sooner suspended or revoked, shall expire by limitation one (1) year following its issuance, and may be renewed after inspection, report and approval by the Department. Such inspection may be made any time prior to the date of expiration of said certificate. A certificate issued to a case management program or agency that has been certified for two consecutive one-year periods, unless sooner suspended or revoked, shall expire by limitation two (2) years following its issuance, and may be renewed for additional, successive two-year (2-year) periods after inspection, report and approval by the Department. Such inspection may be made any time prior to the date of expiration of said certificate.

Part I. Inspections. The Department shall make or cause to be made such inspections and investigations as it deems necessary by duly authorized agents of the Director at such time and frequencies as determined by the Department. A duly authorized representative of the Director shall have the right to enter at any time without prior notice, to inspect the premises and services for which an application has been received, or for which a certificate has been issued. Duly authorized representatives of the Director shall be permitted to interview staff, consumers, and any other interested parties. Refusal to permit inspection or investigation shall constitute a valid ground for suspension or revocation of certificate or curtailment of activities. Each agency shall be given notice by the Department of its level of compliance with these rules, regulations and standards, including a list of all deficiencies reported as a result of an inspection or investigation.

Part J. Denial, Suspension or Revocation of Certificate or Curtailment of Activities. The Department is authorized to deny, suspend or revoke the certificate or curtail activities of any case (or care) management program or agency that receives state or federal funding and (1) has failed to comply with the rules, regulations and standards herein; (2) has offered or provided services to participants outside of the scope of its certificate; or (3) has failed to comply with the provisions of R.I.G.L. § 42-66.6-2. Reports of deficiencies shall be maintained on file in the Department and shall be considered by the Department in rendering determinations to deny, suspend or revoke the certificate or to curtail activities of the case (or care) management program or agency. Notice of such suspension or revocation shall be made by registered or certified mail and by regular mail. Personal service of the notice is authorized in lieu of notice by mail. The notice shall set forth the particular reasons for the proposed action and the procedures for requesting a fair hearing if the applicant or certificate holder wishes to object to the Department's decision. All requests for a fair hearing must be made in writing. The applicant or certificate holder has thirty (30) days from the date of the Department's mailing or personal notice to notify the Department that he/she is requesting a fair hearing to object to the Department's decision. If a request for hearing is not received

within thirty (30) days from the date of the Department's mailing or personal notice, the decision of the Department is final. If the applicant or certificate holder requests a fair hearing, the applicant or certificate holder shall be given notice in accordance with R.I.G.L. § 42-35-9. The date for the fair hearing shall be set no sooner than thirty (30) days from the date the written request for a fair hearing is received by the Department. If a request for a hearing is received, the Director shall appoint an administrative hearing officer who shall conduct a fair hearing. The rules for conducting fair hearings are set forth in R.I.G.L. § 42-35-9 *et seq*.

Part K. Review of Certificate Action. Any applicant, certificate holder, or the state acting through the Attorney General, who is aggrieved by the decision of the Department after a hearing may, within thirty (30) days of receiving notice of the determination provided in Part J. Denial, Suspension or Revocation of Certificate, file a notice of appeal in the Superior Court of the County in which the program or agency is located or is to be located. A copy of the notice of appeal shall be served upon the Director. Such an appeal will stay the denial, suspension or revocation once filed with the clerk of the court for a period not to exceed thirty (30) days, excluding Sundays and legal holidays. If the appeal has not been heard or disposed of within such 30-day period, the denial, suspension or revocation shall no longer be stayed but shall remain in full force and effect during any further pendency of such appeal unless the Superior Court shall, for good cause shown, extend the period of such stay. In no event shall such period be extended beyond the date when the Superior Court shall render its judgment upon the appeal (R.I.G.L. § 42-35-15).

Part L. Injunction to Restrain Operation Without Certificate. Notwithstanding the existence or pursuit of any other remedy, the Department may, in a manner prescribed by law and upon the advice of the Attorney General, who will represent the Department in the proceedings, maintain an action in the name of the state for injunction or other process against any person or persons to restrain or prevent the establishment, conduct, management or operation of a program as defined in this chapter without a certificate.

Part M. Change of Ownership, Operation and or Location. When a change of ownership or operation or location of a case (or care) management program or agency is planned or when discontinuation of services is contemplated, the Department shall be given written notice of pending changes. A certificate shall immediately become void and shall be returned to the Department when operation of a case (or care) management program or agency is discontinued or when any changes in ownership occur. When there is a change in ownership or in the operation or control of the program or agency, the Department reserves the right to extend the expiration date of such certificate, allowing the program or agency to operate under the same certificate which applied to the prior certificate holder for such time as shall be required for the processing of a new application or reassignment of consumers, not to exceed six (6) weeks.

Part N. Construction and Renovations. Any certificate holder or applicant desiring to make alterations or additions to its facility or to construct a new facility shall, before commencing such alteration, addition, or new construction, inform the Department. The Department may conduct preliminary inspection and approval or make recommendations

with respect to compliance with the regulations and standards herein. Necessary conference and consultation may be provided.

Part O. Nondiscrimination and Civil Rights Policy. Each program or agency shall be responsible for maintaining a policy of nondiscrimination in the provision of services to participants and in the employment of staff without regard to race, color, creed, national origin, sex, sexual orientation, age, handicapping condition or degree of handicap, in accordance with Title VI of the Civil Rights Act of 1964; the Rhode Island Executive Order No. 92-2, dated January 23, 1992 and entitled "Compliance with the Americans with Disabilities Act"; the United States Executive Order No. 11246 entitled "Equal Employment Opportunity"; United States Department of Labor Regulations; Title V of the Rehabilitation Act of 1973, as amended; the 1990 Americans With Disabilities Act; R.I.G.L. 42-87, which states that "Discrimination" includes those acts prohibited on the basis of race by 42 U.S.C. #1981, 1983 and those on the basis of handicap by 29 U.S.C. #794 and those on the basis of disability by U.S.C. #12100 et seq. and U.S.C. #12101 et seq., and those on the basis of handicap by R.I.G.L. § 28-5; and the Rhode Island Fair Employment Practices Act.

Part P. Compliance With All Laws, Codes, Rules and Regulations. Each program or agency shall be responsible for complying with all local, state, and federal laws, codes, rules and regulations that apply to the program or agency.

Part Q. Definitions

Whenever used in these rules, regulations and standards, the following terms shall be construed as follows:

"Agency" means the case management agency.

"Building Code" means the current Rhode Island State Building Code, R.I.G.L. § 23-27.3-1 et.seq.

"Case Management" (also "Care Management") means a service that coordinates and links care across community-based health and social services organizations. Case management identifies and secures the necessary resources, equipment, and supplies from formal and informal sources including professionals, paraprofessionals, volunteers, family and friends.

"Confidentiality of Health Care Information" means the current Rhode Island Confidentiality Law, R.I.G.L. § 5-37.3-1 *et.seq.*

"Department" means the Rhode Island Department of Elderly Affairs.
"Director" means the Director of the Rhode Island Department of Elderly Affairs.

"Emergency Procedures" means written protocols to specify exactly the conditions under which (a) agency activities will be cancelled and/or agency will be closed; and (b) agency

personnel and consumers will be evacuated; and to specify means by which consumers and families will be notified of cancellations, evacuations and early closings.

"Life Safety Code" means the current applicable Rhode Island State Fire Safety Code, R.I.G.L. § 23-28.1-1 et.seq.

"Major Components of the Case Management Process" means Intake/Screening; Assessment; Care Planning; Care Coordination and Service Implementation; Monitoring; Advocacy; Reassessment; and Termination and Discharge.

"Role of the Case Manager" means to facilitate access by the consumer to the various services available to meet, maintain, and improve the functional level and independence of the consumer.

"Support Services" means anything needed to achieve the care plan.

Section II. Organization and Administration

Part A. Organizational Philosophy

1. The agency must demonstrate how key components of consumer centered care/service are incorporated into the agency's organizational philosophy, service program and operations in terms of:
    a. the degree and character of consumer/family involvement in program development, implementation and evaluation;
    b. the degree and character of consumer/family involvement in care/service planning;
    c. the emphasis on consumer centered program outcomes;
    d. the extent to which programs are flexible enough to meet special and individual needs;
    e. approaches to assuring consumers/families are encouraged to voice concerns, provide input;
    f. combination of formal programs and informal networks;

2. The agency must demonstrate that it has as an agency value, the provision of high quality, professional services.

3. The agency must have a mission and philosophy statement that reflects the needs of the consumers and the care and services the agency is committed to providing.

Part B. Corporate Structure and Governance

1. The agency may be organized in any legal business form, including but not limited to sole partnership, partnership, joint venture, corporation, non-profit corporation, or trust.

2. If the agency is operated as part of, or in affiliation with, a parent organization, the agency must have a written agreement with the parent organization specifying the relationship between the two entities.

3. The agency must have a governing body with full legal authority and fiduciary responsibility for the overall operation of the agency in accordance with applicable state and federal requirements. The agency must:
    a. Provide names and affiliations of members of the agency's governing body;
    b. Describe structure of the agency's governing body;
    c. Provide functional and staff organizational charts;
    d. Provide a copy of the organization's charter, constitution or by-laws, that include but are not limited to:
        i. a definition of goals, purposes, objectives;
        ii. a statement of compliance with civil rights act and other federal, state, local laws safe guarding civil rights;
        iii. evidence of consumer involvement on governing board and/or advisory committee.
    e. Provide a copy of the following:
        i. annual report and
        ii. annual budget.
    f. Demonstrate that the organization:
        i. maintains financial records, provides annual report by independent auditing firm with management letter;
        ii. adheres to accepted standards of accounting;
        iii. employs administrator and gives person authority to manage the daily affairs according to established personnel and corporate policies.

4. The agency must submit to the Department signed written assurances that it follows all applicable federal and state requirements including, but not limited to:
    a. Title VI of the Civil Rights Act of 1964;
    b. Annual Certification Drug-Free Workplace Requirements;
    c. Certification Regarding Lobbying.

5. Agencies that have an advisory committee must provide:
    a. a list of members of the advisory committee;
    b. officers of the committee and the effective dates of their terms; and
    c. a copy of the by-laws of the advisory committee.

6. The agency must maintain written guidelines for operation, personnel policies, fiscal accountability, organizational structure, organizational philosophy and mission, oversight, partnerships, training, and volunteer opportunities.

7. The agency must demonstrate that it can:
    a. Generate, account for, and distribute revenue;
    b. determine future cash requirements and plan for ensuring cash flow;

c. mitigate liability exposure, including liability for organization, providers, directors, etc.

8. The agency must present a clear and concise annual summary statement of activities and scope of service consistent with the agency's mission and philosophy.

Part C. Operational Capacity

1. The agency must demonstrate that it has the capacity to carry out various operational functions needed to oversee and support the program, including the ability to:
    a. manage ongoing operations;
    b. coordinate across multiple sites, if applicable;
    c. establish and maintain partnerships with entities and programs; and
    d. demonstrate an effective approach to program management.

2. The agency must demonstrate fiscal responsibility and accountability through the following:
    a. fiscal policies, procedures, record keeping that define responsibility and accountability;
    b. a sound approach to financial management, including:
        i. timely billing for services;
        ii. a plan to address long term financial needs;
        iii. fee schedule, including eligibility for discounts, waivers, etc;
        iv. evidence that the governing body approves its annual budget, and reviews income and expenditure reports and annual audit;
    c. operating on a sound financial basis according to acceptable accounting practices, and adhering to standards of accounting and reporting for voluntary health and welfare organizations; and
    d. developing and working within a budget with the capacity for ongoing provider review and revision as necessary.

3. Agencies that are first time recipients of Department funding must provide a sound business plan with plans for development and projected monthly revenue and expense statement for twelve (12) months. This plan must:
    a. include assumed consumer base, services, revenues and expenses;
    b. outline management of initial expenses; and
    c. program development and enhancement timetable.

4. The agency must show evidence of comprehensive insurance coverage that includes general liability and malpractice coverage.
5. The agency must adhere to the current Department Records Retention Schedule that applies to financial and consumer records and related documents.

6. The agency must acquire and maintain an approved vendor agreement with the state Medicaid Management Information System (MMIS).

7. If the agency conducts utilization review of health care services, as defined in R.I.G.L. § 23-17.12, the agency must obtain the appropriate certification from the Rhode Island Department of Health.

8. The agency must demonstrate the capacity to communicate (orally and in writing) with non-English speakers within its service area.

9. The agency must demonstrate the ability to work effectively in multiple community and cultural settings with people of different races, ethnicities, languages and religions.

Part D. Interagency Relationships

1. The agency must demonstrate formal relationships with service providers that require providers to take referred consumers and report to the agency on the outcome of care or services. There must be a written, signed memorandum of understanding (MOU) between the parties that defines the relationship and the parties' expectations.

2. Any agency which refers consumers to any health care facility licensed pursuant to chapter 17 of title 23 or to a residential care/assisted living facility licensed pursuant to chapter 17.4 of title 23 or to an adult day services program licensed pursuant to R.I.G.L. § 42-66-4 in which the referring entity has a financial interest must, at the time a referral is made:
    a. disclose the following information to the consumer:
        i. that the referring entity has a financial interest in the facility or provider to which the referral is being made; and
        ii. that the consumer has the option of seeking care from a different facility or provider which is also licensed by the state to provide similar services to the consumer;
    b. offer the consumer a written list prepared by the Rhode Island Department of Health for licensed health care facilities and residential care/assisted living facilities or a written list prepared by the Department for adult day services programs; and
    c. document this financial disclosure in the individual consumer's file.

3. Noncompliance with Section IID2 shall constitute grounds to revoke, suspend, or otherwise discipline the certified case management agency or to deny an application for certification by the Director, or may result in imposition of an administrative penalty. In cases of noncompliance involving health care facilities and residential care/assisted living facilities licensed by the Department of Health, referral will be made by the Department of Elderly Affairs to the Director of Health for disposition in accordance with R.I.G.L. § 23-17.10. In cases of noncompliance involving adult day services programs, the Director of Elderly Affairs shall take appropriate action under R.I.G.L.§ 42-66-17.

Part E. Physical Plant

1. The agency must provide care and services in the most convenient and accessible location for the consumer that also assures confidentiality of service/care delivery.

2. The agency must comply with all current local, state and federal codes, rules and regulations related to the physical plant, including, but not limited to, current requirements of the Americans With Disabilities Act (ADA).

Section III. Service Delivery

Part A. Intake and Assessment

1. The agency must conduct and document:
   a. an initial screening of each potential consumer; and
   b. an assessment of each potential consumer to: identify consumer's care/service needs and concerns in physical, cognitive, social, emotional, financial, nutritional, environmental domains; and lead to the development of an individualized plan of care and/or service by the case management agency and to a determination of the required level of care by the Rhode Island Department of Human Services.

2. The agency must utilize the current Department assessment tool(s) and Confidential Release of Information Form.

3. The agency must respond by telephone to a request for assessment by the end of the first business day after day of the request.

4. The agency must schedule the assessment within the following time lines:
   a. Abuse/Social Services within three (3) days;
   b. Early Intervention within five (5) days;
   c. Self Neglect within one (1) to five (5) days, depending on urgency;
   d. Home and Community Care within five (5) days;
   e. Home Delivered Meals within seven (7) days.

5 The agency must demonstrate how it will respond to urgent/crisis requests, including what constitutes a crisis and within what timeframes the agency will respond, schedule an assessment, and perform an assessment.

Part B. Care and Service Coordination

1. The agency must provide these components of care/service coordination :
   a. information on services to meet consumer’s needs;
   b. regular follow up contact—utilizing time frames specified in agency policies and procedures—with consumer, service and support providers, and others to ensure continued care per care plan, identification of problems and needs, working with health plans, and further coordination with state and local public agencies to support development of unified plan;
   c. monitoring and re-evaluation of care plan at least once every six (6) months;
   d. help consumers gain access to identified needed health and support services; and
   e. ensure services are delivered in timely fashion as determined by the service team, consumer and referring agency/agencies.

2. The agency must designate a case manager for each consumer. The case manager is responsible for at least:
    a. initial contact with consumer;
    b. coordination of assessment;
    c. being available/accessible to be contacted by the consumer or his/her representative;
    d. implementation of the care plan.
    e. follow-up and re-evaluation.

3. The agency must establish and implement a policy and procedure to encourage continuity of care/service; and take steps to avoid interruptions of care/service, minimize transitions for the consumer; and provide a stable, positive relationship for the consumer.

4. The agency must coordinate care with the Department, in the case of protective services clients, so as to assure that social, health and psychological service needs and protective service needs are addressed in an integrated manner.

5. The agency must provide advocacy, as follows:
    a. support consumer's efforts to have his/her voice heard and to get needed services;
    b. offer advocacy on consumer's or family's behalf when needed services are not being adequately provided by an organization within community's service delivery system and;
    c. recognize potential conflicts of interest and refer consumers to next appropriate service so advocacy needs are met.

Part C. Care Plan Development and Implementation

1. The agency must utilize the current Department care plan documents to develop a care plan in collaboration with the consumer and in coordination with existing community resources within thirty (30) days after an individual enters the program.

2. The agency must:
    a. document the process for getting consumer input into his/her care plan;
    b. include in the care plan a listing of all services recommended for the consumer; and
    c. demonstrate that the plan development is done in conjunction with other agencies providing services to the consumer.

3. The agency must give a copy of the care plan to the consumer.

4. Implementation of the care plan must begin immediately upon approval of the consumer.

Part D. Care Plan Monitoring, Revision and Reassessments

1. The case manager must monitor the care plan according to the following schedule:
    a. Core M/S monthly;

b. Self Neglect monthly;
c. Abuse/Social Services monthly;
d. Early Intervention monthly;
e. Home Delivered Meals intermittently;
f. Co-Pay as needed, but at least every six (6) months.

2. The case manager must review care plans at least twice a year. The case manager must gather relevant information and involve clinical specialists to consult on case reviews as needed.

3. The agency must have plans and procedures for all consumer reassessments:
   a. Use the Department reassessment tool to conduct a first reassessment at six (6) months for Core S/M and Co-Pay. After that, use the Department tool to complete a reassessment for Core S/M and Co-Pay every six (6) months and whenever there is a significant change in consumer's status, as defined in the agency's policy and procedure relating to reassessments.

   b. Visit consumer in the appropriate setting and conduct face to face interview to review established goals and progress in meeting those goals.

4. The agency must track number of referrals, sources, and other information needed to report to the Department.

Part E. Service Denial and Consumer Appeal Procedures

1. If the agency denies a service to a consumer for any reason, the case manager must discuss the reason for the denial with the consumer.

2. If a service is still denied after discussion between the consumer and the case manager, the agency must provide written notice to the consumer that includes the reason for the denial, and the consumer's right to appeal the decision to the agency.

3. Agencies must follow these guidelines for addressing complaints and appeals brought by, or on behalf of, consumers:
   a. Any consumer or representative who needs clarification concerning denial of service(s) funded under Medicaid or who wishes to appeal Medicaid denial must contact the Rhode Island Department of Human Services;
   b. Any consumer or representative who has a problem on any other topic which (s)he cannot solve with his/her case manager must request a meeting with the case management supervisor;
   c. The agency must appoint a hearing officer who is not directly responsible for case management or for determining consumer eligibility to receive case management services. This individual must hear any complaints or appeals which cannot be resolved by the case management supervisor;

d. Consumers (or representatives) must request a hearing by the agency hearing officer in writing within thirty (30) days after the failure to resolve the problem with the case management supervisor;
e. If the consumer is homebound, the agency hearing officer must visit the consumer's home to gather information;
f. All pertinent information must be recorded;
g. Consumer complaints must be heard and a decision for action developed within thirty (30) days after the complaint is received by the hearing officer;
h. The decision of the agency hearing officer must be sent by certified mail to the consumer or representative;
h. Any complaint or appeal which cannot be resolved at the agency level by the case management supervisor and the hearing officer may be brought to the Department in writing by the consumer or representative;
i. The consumer or representative must address the complaint to: Director, Department of Elderly Affairs; John O. Pastore Center; Benjamin Rush (Bldg. # 55); 35 Howard Avenue; Cranston, RI 02920.
j. The Department shall conduct an investigation and reply to the complaint in writing to the consumer or representative within thirty (30) days after receipt of the written complaint.

4. The agency must assure that all consumers receive a copy of the complaint procedure during the first month of their service provision.

Part F. Discharge/Transition

1. Discharge/transition plans must be developed for consumers with changes in service needs and changes in functional status that prompt another level of care.

2. The agency must develop a discharge protocol that includes criteria and notification procedures.

3. The agency must document the reason for discharge and all related information in the individual consumer record.

4. The agency must give the consumer and family/caregiver written notice if he/she is to be discharged from the program and:
    a. advise the consumer of his/her right to appeal a service decision, and
    b. review appeal procedure with consumer or representative.

5. The agency must comply with all requirements of **Part D. Interagency Relationships** in making consumer referrals to other service providers.

Section IV. Personnel

Part A Employee Policies

1. The agency must document clear job roles and lines of communication.

2. The agency must disclose any financial or other formal relationships with other facilities and organizations to which it refers consumers.

3. The agency must have an established process for assuring employee competence, including licensing where necessary.

4. The agency must have written policies to:
    a. inform staff and consumers of general content of Department and other state regulations, including but not limited to regulations related to personnel, fiscal, access to services:
    b. develop and implement personnel policies and procedures to ensure compliance with Department and other state regulations;
    c. outline personnel supervision, evaluation, training and record keeping;
    d. verify licensing and credentials of licensed or certified personnel upon hire and then at least every year; and
    e. specify roles played by volunteers and which employee policies and procedures apply to volunteers.

5. Upon hire and prior to delivering services, each employee who has direct participant contact must have an employment health examination that includes a physician's certification (i.e., documented evidence) of screening (and immunization when appropriate) which shall include but not be limited to tuberculosis, rubella, measles, influenza, blood borne pathogens.
    a. If documentation is provided by the employee that said health examination, including required screening, has been performed during the most recent six (6) months prior to hire, the requirements of this section shall have been met.

6.. All employees who have direct participant contact must be subject to a criminal background check prior to, or within one (1) week of, employment.
    a. Said employees, through the agency, must apply to the bureau of criminal identification of the state or local police department or the Rhode Island Attorney General's Office for a criminal records check. Fingerprinting shall not be required as part of this check.
    b. in those situations in which no disqualifying information, defined as any conviction for any offense listed in R.I.G.L. § 23-17.4-30 and R.I.G.L. § 23-17-37, has been found, the bureau of criminal identification (BCI) will inform the applicant and the agency in writing;
    c. any disqualifying information will be conveyed to the applicant in writing by the BCI;
    d. the agency will also be notified that disqualifying information has been discovered, but will not be informed of the nature of the disqualifying information ;
    e. the agency must maintain on file, subject to inspection by the Department, evidence that criminal records checks have been initiated on all employees seeking employment, as well as the results of said checks;
    f. if an applicant has undergone a criminal records check within eighteen (18) months of an application for employment, than an agency may request from the BCI a letter indicating if any disqualifying information was discovered. The BCI will respond

without disclosing the nature of the disqualifying information. This letter may be maintained on file to satisfy the requirements of this section.

g. an employee against whom disqualifying information has been found may request a copy of the criminal background report be sent to the agency who shall make a judgment regarding the continued employment of the employee. Agencies are encouraged to work with qualified employees to expunge their criminal background records when said expungement is possible.

7. The agency must assure that staff holding professional licensure hold a current Rhode Island license and practice within the scope of this license.

8. The agency must evaluate staff members' performance in writing and give each employee a written copy.

9. The agency must maintain confidential personnel records for each employee that include at least the following information:
    a. job application and resume;
    b. references;
    c. copy of license or certificate;
    d. documentation of training;
    e. results of criminal background checks;
    f. performance evaluations; and
    g. signed agreement about consumer information and records confidentiality.

10. The agency must protect itself by providing professional insurance protection/malpractice insurance/errors and omission protection coverage.

11. The agency must comply with all provisions of applicable law, including, but not limited to, the Americans with Disabilities Act of 1990; the Governor's Executive Order No. 96-14 (prohibits discrimination on the basis of race, sex, national origin, sexual orientation, disability); and the Governor's Executive Order No. 95-11 (relating to sexual harassment).

12. The agency must comply with the Department's requirements regarding the safeguarding of consumer information and records.

13. The agency must comply with all state and local building, fire safety, and health codes.

14. The agency must have a written infection control plan.

Part B. Staff Training

1. A written plan for providing ongoing education, supervision and direction to staff who provide the core services specified in the contract must be included in the agency's policy and procedure manual.

2. The agency must provide training to refine and update staff's knowledge and skills

in the following areas:

a. consumer rights;
b. consumer information and record confidentiality;
c. diversity and cultural sensitivity;
d. substance abuse, mental health, elder abuse and self-neglect identification;
e. dementias, including but not limited to Alzheimer's disease;
f. detection of potential risk factors; and
g. staff and consumer safety.

3. The agency must provide staff with orientation and training needed to produce competent and caring case managers:
    a. All new case management staff must receive a complete orientation to agency policies and procedures, resources in the community, and overview of all agency programs.
    b. At time of orientation, the agency must distribute a copy of the agency's educational plan and professional development guidelines that address continuing educational opportunities for case management staff.
    c. Case managers must receive training on the Department's standardized assessment instrument, with training provided when changes are made to this instrument.

Part C. Staffing and Staff Qualifications

NOTE: these requirements are in addition to all applicable state and other funding agency licensing and other requirements.

1. The agency must delineate staff roles, reporting relationships, and supervision.

2. The agency must provide job descriptions for each staff position.
    a. Where volunteers are used, provide volunteers with written job descriptions outlining needed skills, duties, lines of supervision and communication.

3. Each consumer must have a designated case manager:
    a. The agency must define how a case manager will be assigned to the consumer, including but not limited to procedures for consumer choice of case manager;
    b. The case manager must receive training in the systems the consumer may need and that are available in the network and through other providers;
    c. The agency must define the experience criteria for a case manager.

4. Case Managers must have a bachelor's or higher degree in social work, gerontology, nursing, human services, or related field; and must meet the agency's definition of experience criteria for a case manager (See IVC. 3c. above).

5. Case Management Supervisors must have a master's degree, preferably in social work, or have a bachelor of science in nursing degree with a current Rhode Island license in either social work or nursing. Specialty or advanced training in gerontology and in supervision is

preferred. A minimum of three (3) years experience in direct services with the elderly and one (1) year experience in supervision are also required.

6. All staff licensed by the State of Rhode Island must maintain current Rhode Island license(s).

7. The agency must ensure that case managers possess the following skills and abilities:
    a. ability to communicate with consumers, family members, providers, and coworkers;
    b. knowledge of human behavior and the aging process;
    c. knowledge of available program funding and other resources;
    d. ability to engage persons of various cultures and lifestyles in the helping process;
    e. ability to work with various cultures and the sensitivity required to empower the family system;
    f. knowledge of social, health, and mental health interventions;
    g. skills and techniques for crisis intervention and problem solving;
    h. ability to critically analyze and make immediate decisions;
    i. ability to actively listen to the consumer;
    j. skills in time management, organizational development, and planning;
    k. ability to empower consumers and to accept the consumer's choices;
    l. knowledge of federal, state, and local policies with regard to community based programs;
    m. ability to effect change through advocacy for the consumer; and the
    n. ability to initiate and sustain trusting relationships.

8. The agency must ensure that each case manager has a caseload that allows him/her adequate time to meet the needs of their consumers and comply with Department rules, regulations and standards.

9. Agency determination of caseload size must take into account consumer mix, scope of work provided, and complexity of work provided.

10. The agency must have sufficient case management staff to provide good consumer service and assure the provision of quality services to all consumers in a timely manner.

11. The agency must ensure that case management supervisors possess the following skills and abilities:
    a. ability for strong inter-personal communication;
    b. ability to plan and conduct weekly supervisory meetings with individuals and groups;
    c. ability to provide ongoing guidance and support to staff and consumers;
    d. ability to design consumer and program goals, policies, and procedures that can be adjusted to the changing needs of consumers and policy makers;
    e. ability to conduct in-service training and provide ongoing professional growth of staff members.;

f. ability to evaluate case manager's skills on an ongoing and annual basis;
g. ability to establish clear and measurable objectives for case managers and other staff;
h. ability to coordinate and network with a wide variety of agencies and professionals involved in providing services to older persons;
i. ability to collect and use data required by the Department management information system;
j. knowledge of quality measures; and
k. ability to develop and implement quality outcome measures.

12. The agency must assure that the individual who is responsible for the supervision of all case management staff assumes a leadership role by doing at least the following:
    a. reviewing case records and ensuring that documentation is adequate and up-to-date and that consumer records and reports meet agency guidelines;
    b. meeting at least twice a month with each case manager to assist him/her with care plan implementation and problem solving;
    c. documenting all supervision meetings and signing those consumer records reviewed during the meeting;
    d. conducting home visits with each case managers every six (6) months in order to evaluate the skill level of the case manager; and
    e. observing and documenting each case manager's inter-personal skills, care plan review, knowledge of services provided, and active listening skills.

13. The agency administrator must have a bachelor's degree and at least 3 years experience in program development or management.

Section V. Data Management and Continuous Quality Improvement

Part A. Collecting and Managing Data.

1. The agency must have an information system to collect, analyze, report consumer data, indicators, reports and improvement plans.

2. The agency must collect measurable indicators identified by the Department:
    a. indicators will be in the following categories: service use, consumer characteristics, unmet needs, gaps, service duplications; and
    b. specific data elements will be specified in the service contract.

3. The agency must gather information in standardized format supplied by the Department and report at intervals specified by the Department.

4. The agency must maintain consumer records that include at least the following:
    a. assessments, care plans, reevaluations, consultations, discharge plans;
    b. release of confidential information documents;
    c. copies of legal documents, such as power of attorney and advance directives;
    d. fees and arrangements for reimbursement and payment; and

e. identification of and authorization for third party payers.

5. The agency must comply with all current Departmental policies and procedures and with all current state and federal laws and regulations related to confidential consumer information and records.

Part B. Program Evaluation and Quality Improvement

1. The agency must develop and utilize a self-evaluation and continuous improvement system with a statement of program goals and objectives.

2. The agency must revise its program based on the outcome of self-evaluation.

3. The agency should review established program goals, performance compared to goals, measures in place to address areas of concern, and recommendations based on data collected.

4. The agency's continuous quality improvement system should address scope of services, cost effectiveness, evaluation findings, recommendations, timetable for implementing change, identification of individuals and agencies involved in plan.

5. Quality Improvement policy and procedures must address the core services provided by the agency and include:
    a. care process improvement strategies;
    b. degree of coordination with other systems, coordination of plans; and
    c. an evaluation of the agency's organizational capacity;

6. The agency must provide the Department with all evaluation/quality assurance data specified in the contract in the specified format, including but not limited to:
    a. consumer demographics;
    b. units of services provided;
    c. cost data;
    d. a sample of care plans for expert review;
    e. information needed to conduct a Department consumer satisfaction survey.

Section VI. Organizational Ethics

Part A. General.

1. The agency must disclose potential conflicts of interest and financial and ownership relationships.

2. If the agency has a system for reimbursement, bonuses or incentives to staff based on consumer service utilization, the agency must establish and implement policies to ensure that consumer care/service is not compromised.
3. The agency must comply with state procedures for reporting suspected elder abuse and/or neglect to the Department.

Part B. Consumer Rights and Responsibilities.

1. The agency must have a consumer bill of rights that addresses the rights and responsibilities of the consumer in relationship to the program and agency.

2. The agency consumer bill of rights must implement the principle that consumers have the right to exercise their choices and values in service provision and that the case management process honors consumer rights, preferences, and values.

3. The consumer bill of rights must address consent, consumer satisfaction, consumer autonomy, consumer choice and participation, confidentiality, ensuring consumer is fully informed, and grievance policies and procedures.

4. The agency must distribute and explain the consumer bill of rights to all consumers (or their representatives, families) staff, and volunteers in the appropriate language.

5. All consumers or their representatives must review all consents and permission documents, sign or indicate that they understand what they have read and refuse to sign. Copies of all consents and permission documents must be kept in the consumer's individual record.

6. The agency must ensure that each consumer is treated as an adult, with consideration, respect, dignity, and privacy.

7. The agency must assure the consumer has self-determination within the service setting and inform consumers of choices regarding services and care.

8. The consumer has the right to refuse services and know the implication of such refusal relating to benefits eligibility and/or health outcomes.

9. The agency must use end of life and advance care directives as applicable.

10. The agency must utilize alternative approaches when the consumer and/or family is unable to fully participate in the assessment phase.
11. The agency must have a process for consumer participation in all phases of the care management process (from care/service plan development to service delivery) and for assuring that the consumer is informed of rights and responsibilities. The consumer may assign responsibility to another individual.

12. The agency must establish and implement a policy to protect the confidentiality of consumer specific information to the extent of law. This policy must:

a. address communications and records transmitted or stored, in conformance with applicable law and regulation;
b. assure that no personal or medical information will be released to persons not authorized under law to receive it without the consumer's written consent, in accordance with R.I.G.L. 5-37.3; and
c. require employees to sign a statement that they understand their responsibility to preserve confidentiality.

13. The agency must take necessary steps to ensure that consumers are fully informed, including but not limited to:
    a. procedures for orienting consumer/family to policies, services, facilities;
    b. making public all agency and program inclusion and exclusion criteria; and
    c. providing consumers with the following information:
        i. program's range of care and services,
        ii. staffing profile,
        iii. consumer confidentiality,
        iv. policies and procedures,
        v. admission, transfer and discharge procedures,
        vi. fees and arrangements for reimbursement and payment,
        vii. identification of and authorization for third party payers,
        viii. any non-financial obligations of the consumer and family, and
        ix. days and hours of program operation, including schedule of holidays.

14. The agency must provide the bill of rights in English and other principal languages within its service area; and display a large print copy in an area frequented by the public.

15. The agency must assure that consumers can voice grievances about care and services without discrimination or reprisal, and must maintain a complaint/grievance log that is available for review by the Department.

Part VII. Variance Procedures, Deficiencies and Plans of Correction, Violations, Sanctions and Severability.

Part A. Variance Procedure. The certification rules, regulations and standards for case (or care) management programs and agencies are designed so that full compliance is required in order for a certificate to be granted. It is recognized that there will be need from time to time for a program or agency to bypass a specific rule or rules in order to best accomplish its stated philosophy, goals and purpose. The Department may grant a variance either upon its own motion or upon request of the applicant from the provisions of any rule or regulation in a specific case if it finds that a literal enforcement of such provision will result in unnecessary hardship to the applicant and that such a variance will not be contrary to the public interest, public health and/or health and safety of consumers. A request for a variance shall be filed by an applicant in writing, setting forth in detail the basis upon which the request is made. Within ten (10) working days of the receipt of the variance request, unless additional time is required to review the program and the reason for the variance, the Variance Review Committee will review the application and return a decision, in writing, to the applicant. If the applicant is dissatisfied with the decision of

the Variance Review Committee, an appeal may be made through the process outlined in Part J. Denial, Suspension or Revocation of Certificate or Curtailment of Activities.

Part B. Deficiencies and Plans of Correction. The Department shall notify the governing body or other legal authority of a program or agency the degree of compliance with these rules, regulations and standards through a statement, including a notice of deficiencies, if any, which shall be forwarded to the certificate holder within fifteen (15) working days after inspection of the program or agency, unless the Director determines that immediate action is necessary to protect the health, welfare, or safety of the public or any member thereof through the issuance of an immediate compliance order. A certificate holder who receives a notice of deficiencies must submit a plan of correction to the Department within fifteen (15) working days of the date of the notice of deficiencies. The plan of correction shall contain any request for variances. The Department will be required to approve or reject the plan of correction submitted by a certificate holder within fifteen (15) working days of receipt of the plan. If the Department rejects the plan of correction, or if the certificate holder does not provide a plan of correction within the fifteen (15) working days period, or if an agency or program whose plan of correction has been approved by the Department fails to execute its plan within a reasonable time, the Department may invoke the sanctions enumerated in Part J. above. If the program or agency is aggrieved by the sanctions of the Department, it may appeal the decision and request a fair hearing. The notice of the hearing to be given by the Department and the hearing shall comply in all respects with the provisions of R.I.G.L. § 42-35-9.

Part C. Violations and Sanctions. Any person establishing, conducting, managing or operating a case (or care) management program as defined by these rules, regulations and standards without a certificate shall be guilty of a misdemeanor, and upon conviction, shall be fined not more than one thousand dollars ($1,000) or imprisoned not more than six (6) months, or both, at the discretion of the court, for each offense.

Part D. Severability. If any provision of the rules, regulations and standards herein or the application thereof to any program, agency or circumstances shall be held invalid, such invalidity shall not affect the provision or application of the rules, regulations and standards which can be given effect, and to this end the provisions of the rules, regulations and standards are declared to be severable.