

**RULES
OF THE
TENNESSEE DEPARTMENT OF INTELLECTUAL AND DEVELOPMENTAL DISABILITIES
OFFICE OF LICENSURE**

**CHAPTER 0465-02-17
MINIMUM PROGRAM REQUIREMENTS FOR INTELLECTUAL AND DEVELOPMENTAL
DISABILITIES PERSONAL SUPPORT SERVICES AGENCIES**

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0465-02-17-.01 SCOPE.

- (1) These rules apply to all agencies or personal support services coordinator who provide personal support services in the permanent or temporary residence of persons supported who meet the criteria specified in Rule 0465-02-01(47).
- (2) The following are exempt from licensure under this chapter:
 - (a) An individual who provides personal support services to only one (1) person supported and who is not in a business arrangement to provide personal support services to any other person supported. This exception shall not apply to an individual who holds themselves out to the public as being in the business of personal support services for compensation;
 - (b) An individual who provides personal support services only to members of the individual's own family;
 - (c) An individual who provides only housekeeping services to a person supported and no other assistance with major life activities;
 - (d) An individual who provides only transportation services and no other assistance with major life activities;
 - (e) An individual who provides services in homeless shelters;
 - (f) An individual who provides only delivery services, such as dry-cleaning, food, medication delivery, or medical equipment; and
 - (g) Home care organizations licensed under T.C.A., Title 68, Chapter 11, Part 2 as a home care organization.

Authority: T.C.A. §§ 4-4-103, 4-5-202, 33-1-201, 33-1-302, 33-1-303, 33-1-305, 33-1-309, 33-2-301, 33-2-302, 33-2-404, 33-2-407. **Administrative History:** New rules filed July 6, 2016; effective October 4, 2016.

0465-02-17-.02 APPLICATION FOR LICENSURE.

- (1) To provide personal support services, an agency needs a license from either the Department of Mental Health and Substance Abuse Services or the Department of Intellectual and Developmental Disabilities.
- (2) An agency licensed by either Department listed in Rule 0465-02-17-.02(1) may provide personal support services to individuals with physical or other disabilities.
- (3) An agency seeking an initial license as a personal support service agency must submit a written attestation at the time of application acknowledging the categorization of the majority of its client population base, as described in (a) and (b) below. The written attestation shall be on a form developed by the department to whom application for a license is made.
 - (a) An agency with 50% or more of its client base being aged and/or having a diagnosis of mental illness and/or substance abuse should obtain a license from the Department of Mental Health and Substance Abuse Services.
 - (b) An agency with 50% or more of its client base having a diagnosis of developmental disability or intellectual disability should obtain a license from the Department of Intellectual and Developmental Disabilities.
- (4) After January 1, 2016, any agency seeking renewal of a personal support services license need only make application with the department that licenses 50% or more of its client base, as described in sections (3)(a) and (b) above. The renewing agency shall submit with the renewal application a written attestation acknowledging the categorization of the majority of its client population base.
- (5) No license shall be issued until the appropriate fee or fees are submitted by the agency seeking an initial or renewal license, as set forth in Rule 0465-02-02-.05 Licensure Administration and Procedures, Fees. All fees submitted are non-refundable.
- (6) The agency should submit to the licensing department a list of the counties in which they provide services and the address at which the agency maintains its employee and service recipient records.

Authority: T.C.A. §§ 4-4-103, 4-5-202, 33-1-201, 33-1-302, 33-1-303, 33-1-305, 33-1-309, 33-2-301, 33-2-302, 33-2-404, 33-2-407. **Administrative History:** New rules filed July 6, 2016; effective October 4, 2016.

0465-02-17-.03 GOVERNANCE.

- (1) The licensee shall comply with all federal, state, and local laws, ordinances, rules, and regulations.
- (2) The licensee shall ensure that the agency is administered and operated in accordance with written policies and procedures including, but not limited to, those specified in Rule 0465-02-17-.04.
- (3) The licensee shall exercise general direction over the agency and establish policies governing the operation of the agency and the welfare of the person supported.
- (4) The licensee shall designate an individual responsible for the operation of the agency.

(Rule 0465-02-17-.03, continued)

- (5) The licensee shall ensure that the licensed agency supports only persons supported who will not cause the agency to violate its licensed status based on the distinct licensure category.

Authority: T.C.A. §§ 4-4-103, 4-5-202, 33-1-201, 33-1-302, 33-1-303, 33-1-305, 33-1-309, 33-2-301, 33-2-302, 33-2-404, 33-2-407. **Administrative History:** New rules filed July 6, 2016; effective October 4, 2016.

0465-02-17-.04 PERSONNEL AND STAFFING.

- (1) The governing body must ensure that appropriate support and assistance are provided in accordance with the needs of persons supported.
- (2) Employees shall be screened or tested for tuberculosis according to the procedures of the Tennessee Department of Health. Documentation of such screening or testing shall be maintained in the employee's personnel file.
- (3) Support staff must be provided with a basic orientation in the proper management of seizures for persons supported prior to being assigned to work.
- (4) The governing body must ensure that support staff are trained in First Aid and Cardiopulmonary Resuscitation (CPR).

Authority: T.C.A. §§ 4-4-103, 4-5-202, 33-1-201, 33-1-302, 33-1-303, 33-1-305, 33-1-309, 33-2-301, 33-2-302, 33-2-404, 33-2-407. **Administrative History:** New rules filed July 6, 2016; effective October 4, 2016.

0465-02-17-.05 PERSON SUPPORTED RECORDS.

- (1) The governing body must ensure that each record of the person supported contains the following:
 - (a) A recent photograph and identifying information of the person supported;
 - (b) The social security number of the person supported;
 - (c) The legal competency status of the person supported, including the name of his/her legal representative (conservator, parent, guardian, or legal custodian), if applicable;
 - (d) The sources of financial support of the person supported, including social security, veterans benefits, and insurance;
 - (e) The sources of coverage for medical care of the person supported;
 - (f) The name, address, and telephone number of the physician or healthcare agency providing medical services for the person supported;
 - (g) Report of medical problems, accidents, seizures, and illnesses of the person supported, and treatments for such medical problems, accidents, seizures, and illnesses as they occur;
 - (h) Report of significant behavior incidents of the person supported, and of actions taken;
 - (i) Report of restrictive behavior-management techniques used on the person supported; and

(Rule 0465-02-17-.05, continued)

- (j) Written accounts of all monies received and disbursed on behalf of the person supported.

Authority: T.C.A. §§ 4-4-103, 4-5-202, 33-1-201, 33-1-302, 33-1-303, 33-1-305, 33-1-309, 33-2-301, 33-2-302, 33-2-404, 33-2-407. **Administrative History:** New rules filed July 6, 2016; effective October 4, 2016.

0465-02-17-.06 MEDICATION ADMINISTRATION.

- (1) When medications are administered by certified staff to persons supported the licensee must:
 - (a) Consider the ability and training of the person supported, when supervising the self-administration of medication;
 - (b) Ensure that prescription medications are taken only by the person supported for whom they are prescribed, and in accordance with the directions of a physician;
 - (c) Provide storage for medications in a locked container, which ensures proper conditions of security and sanitation, and prevents accessibility to any unauthorized individual;
 - (d) Assure the disposal of discontinued and outdated medications and containers with worn, illegible or missing labels; and
 - (e) Report all medication variance (errors), medication reactions, or suspected side effects to the practitioner who prescribed the medication.

Authority: T.C.A. §§ 4-4-103, 4-5-202, 33-1-201, 33-1-302, 33-1-303, 33-1-305, 33-1-309, 33-2-301, 33-2-302, 33-2-404, 33-2-407. **Administrative History:** New rules filed July 6, 2016; effective October 4, 2016.

0465-02-17-.07 ASSESSMENTS.

- (1) The following assessments of the person supported must be completed prior to the development of an ISP:
 - (a) An assessment of current abilities and preferences; and
 - (b) A review of relevant medical, medication, and health information.

Authority: T.C.A. §§ 4-4-103, 4-5-202, 33-1-201, 33-1-302, 33-1-303, 33-1-305, 33-1-309, 33-2-301, 33-2-302, 33-2-404, 33-2-407. **Administrative History:** New rules filed July 6, 2016; effective October 4, 2016.

0465-02-17-.08 INDIVIDUAL SUPPORT PLAN (ISP) TEAM.

- (1) The licensee must ensure that an ISP team known as the Circle of Support is identified and provided for each person supported. The team may include the following as determined by the person supported:
 - (a) The person supported;

(Rule 0465-02-17-.08, continued)

- (b) The legal representative (conservator, parent, guardian, or legal custodian) of the person supported, if applicable, unless their inability or unwillingness to attend is documented;
- (c) Appropriate Provider staff;
- (d) Relevant professionals or individuals, unless their inability to attend is documented;
- (e) Friends, advocates and other non-paid supports, if applicable; and
- (f) The Independent Support Coordinator/Case Manager.

Authority: T.C.A. §§ 4-4-103, 4-5-202, 33-1-201, 33-1-302, 33-1-303, 33-1-305, 33-1-309, 33-2-301, 33-2-302, 33-2-404, 33-2-407. **Administrative History:** New rules filed July 6, 2016; effective October 4, 2016.

0465-02-17-.09 INDIVIDUAL SUPPORT PLAN (ISP) DEVELOPMENT AND IMPLEMENTATION.

- (1) The licensee must ensure that a written ISP is provided and implemented for each person supported. The ISP must meet the following requirements:
 - (a) Developed within thirty (30) days of the admission of the person supported;
 - (b) Developed by the ISP team of the person supported;
 - (c) Includes the date of development of the ISP;
 - (d) Includes signatures of the person supported, appropriate staff, and, if applicable, the legal representative (conservator, parent, guardian, or legal custodian) of the person supported;
 - (e) Specifies the needs identified by assessment of the person supported and addresses those needs within the particular service/program component;
 - (f) Includes personal goals and objectives of the person supported, which are related to the specific needs identified, and specifies which goals and objectives are to be addressed by a particular service/program component; and
 - (g) Includes methods or activities by which the goals and objectives of the person supported are to be implemented.

Authority: T.C.A. §§ 4-4-103, 4-5-202, 33-1-201, 33-1-302, 33-1-303, 33-1-305, 33-1-309, 33-2-301, 33-2-302, 33-2-404, 33-2-407. **Administrative History:** New rules filed July 6, 2016; effective October 4, 2016.

0465-02-17-.10 INDIVIDUAL SUPPORT PLAN (ISP) MONITORING AND REVIEW.

- (1) Written progress notes must be maintained, which include at least quarterly reviews of progress or changes occurring in the ISP.
- (2) Changes relative to health, safety, and implementation of outcome based services must be assessed on an ongoing basis and reflected within the quarterly reviews.
- (3) The ISP team must review the ISP annually and revise, as necessary.

(Rule 0465-02-17-.06, continued)

Authority: T.C.A. §§ 4-4-103, 4-5-202, 33-1-201, 33-1-302, 33-1-303, 33-1-305, 33-1-309, 33-2-301, 33-2-302, 33-2-404, 33-2-407. **Administrative History:** New rules filed July 6, 2016; effective October 4, 2016.

0465-02-17-.11 USE OF RESTRICTIVE BEHAVIOR MANAGEMENT.

- (1) No procedures shall be used for behavior management which results in physical or emotional harm to the person supported.
- (2) Corporal punishment, seclusion, aversive stimuli, chemical restraint, and denial of a nutritionally adequate diet shall not be used.
- (3) Restraint (physical holding, mechanical restraint), medications for behavior management, time-out rooms, or other techniques with similar degrees of restriction or intrusion must not be employed except as an integral part of an ISP.
- (4) Restrictive or intrusive behavior management procedures must not be used until after less restrictive alternatives for dealing with the problem behavior have been systematically tried or considered and have been determined to be inappropriate or ineffective.
- (5) Prior to the implementation of a written program or behavior support plan incorporating the use of a highly restrictive or intrusive technique, the program plan must be reviewed and approved by the person supported or his/her legal representative (conservator, parent, guardian, or legal custodian), with documentation of such approval. A Human Rights Committee must also review and approve the written program.
- (6) When procedures such as physical holding, mechanical restraint, and time-out are used in emergency situations to prevent the person supported from inflicting bodily harm, more than three (3) times within six (6) months, a behavioral assessment shall be conducted by an appropriate professional. Recommendations shall be incorporated into a written plan that is part of the ISP.
- (7) Behavior management medications may be used only when authorized in writing by a physician for a specific period of time.
- (8) The program plan for the use of a mechanical restraint must specify the extent and frequency of the monitoring schedule according to the type and design of the device and the condition of the person supported.
- (9) A person supported who is placed in a mechanical restraint must be released for a minimum of ten (10) minutes at least every two (2) hours and provided with an opportunity for freedom of movement, exercise, liquid intake/refreshment, nourishment, and use of the bathroom.
- (10) Physical restraint/physical holding may be used only until the person supported is calm.
- (11) A person supported who is placed in time-out must be released after a period of not more than sixty (60) minutes.
- (12) The ability of a person supported to exit from time-out must not be prevented by means of keyed or other locks, and locations used for time-out must allow for the immediate entry of staff.

(Rule 0465-02-17-.11, continued)

Authority: T.C.A. §§ 4-4-103, 4-5-202, 33-1-201, 33-1-302, 33-1-303, 33-1-305, 33-1-309, 33-2-301, 33-2-302, 33-2-404, 33-2-407. **Administrative History:** New rules filed July 6, 2016; effective October 4, 2016.