Specialty Hospitals
Amendments to 14 NYCRR Part 680

ADOPTED REGULATIONS

- **Existing subdivisions 680.1(b), (d), and (e) are amended to read as follows:**

(b) The specialty hospital serves as a transitional setting which has as its primary goal the prevention, amelioration, or limitation of health care problems for individuals with developmental disabilities to enable the movement of such individuals to less restrictive environments.

(d) Individuals admitted to a specialty hospital shall have a previously established diagnosis of developmental disability as determined by the OPWDD through the eligibility process (see section 680.13 of this Part) and shall require:

(e) Services within a specialty hospital shall be oriented toward ameliorating the health care problem(s) preventing an individual's [client's] movement to the least restrictive treatment alternative (see section 680.13 of this Part). Therefore, health care problems preventing such movement shall be identified for individuals prior to their admission to a specialty hospital. Services focused on these identified problems shall be delivered with the frequency and intensity necessary to affect a rapid transition to less restrictive treatment alternatives. In general, comprehensive programming aimed toward a general increase in all aspects of individual functioning is not the primary emphasis of specialty hospitals.

- **Existing subdivisions 680.2(a) and (f) are amended to read as follows:**

(a) Section 13.09 of the Mental Hygiene Law grants the commissioner the power to adopt rules and regulations which are necessary and proper to implement any matter under [his or her] their jurisdiction.

[(f) Section 31.04 of the Mental Hygiene Law authorizes the commissioner to adopt regulations establishing classes of operating certificates. Furthermore, this section authorizes the commissioner to adopt regulations establishing procedures for the issuance, amendment and renewal of operating certificates. This section also authorizes the commissioner to adopt regulations setting standards of quality and adequacy for facilities, equipment, personnel, records, services and programs pursuant to an operating certificate.]

- **Existing subdivisions 680.3(b) - (d), (i), (k), (n), (p), and (q) are deleted and amended as follows:**

[(e)](b) If so notified by the commissioner, the specialty hospital shall obtain a valid operating certificate issued pursuant to article 28 of the Public Health Law.

Note: New material is underlined and deleted material is in [brackets].

[(f)](c) A specialty hospital may be operated under voluntary, proprietary, or public auspices (see section 680.13 of this Part). However, in no event shall facilities identified in article 13.17 of the Mental Hygiene Law as Schools for persons with developmental disabilities (*i.e.,* developmental centers) be operated as specialty hospitals.

[(g)](d) An application for an initial operating certificate from OPWDD or for renewal of an existing operating certificate shall be submitted in the format and subject to the certificate of need review (see section 680.13 of this Part) procedures prescribed by OPWDD.

[(h)](e) An operating certificate, valid for a period not to exceed three years, will be issued to each specialty hospital which complies with the requirements stated in this regulation and in all other applicable State and Federal requirements.

[(i) The current operating certificate from OPWDD shall be framed and displayed in a conspicuous place in the specialty hospital and shall be shown to anyone requesting to see it.]

[(j)](f) The certified capacity (see section 680.13 of this Part) of the specialty hospital shall not be exceeded at any time.

[(k) All operating certificates issued by OPWDD shall remain the property of OPWDD. Expired, invalidated, revoked or terminated certificates shall be returned to OPWDD.]

[(l)](g) The certificate holder shall obtain prior approval from OPWDD to:

(1) change the address or physical location of the specialty hospital or utilize additional physical locations or premises or parts of premises;

(2) initiate any changes in the overall provision of services to individuals; or

[(3) change the powers or purposes set forth in any certificate of incorporation or partnership agreement; or]

[(4)](3) change the certified residential capacity of the specialty hospital.

[(m)](h) The certificate holder shall also obtain prior approval from OPWDD to change the specific responsibilities or qualifications of the administrator (see section 680.13 of this Part).

[(n) The operating certificate may be suspended, revoked or limited as follows:

(1) The commissioner may revoke, suspend or limit the operating certificate upon his finding that a specialty hospital has failed to comply with the terms of the operating certificate or with the provisions of any applicable statute, rule or regulation. The certificate holder shall be given notice and an opportunity to be heard prior to any such action.

(2) The commissioner may revoke, suspend or limit the certificate in accordance with the provisions of section 16.17 of the Mental Hygiene Law and Part 602 of this Title.]

Note: New material is underlined and deleted material is in [brackets].

[(o)](i) The certificate holder shall give written notice to OPWDD not less than 60 days prior to the voluntary termination of the operation of the specialty hospital. This notice of intention to voluntarily terminate shall include a statement of the actions which will be taken by the certificate holder [:] in accordance with section 16.05 of the Mental Hygiene Law.

[(1) to assure appropriate referral of individuals in the residence and continuation of treatment offered by the specialty hospital;

(2) to preserve the confidentiality of records; and

(3) to settle all outstanding debts and accounts receivable according to the preexisting individual agreements.]

[(p) The following procedures shall be observed in the case of catastrophic termination of operation:

(1) If through catastrophe such as, but not limited to, fire, flood or earthquake, the specialty hospital is unable to operate as certified for a period of 60 days, the operating certificate shall be null and void.

(2) From the time of such catastrophe, the governing body, in collaboration with the commissioner, shall be responsible for providing emergency accommodations and continuing support to all clients until such time as the specialty hospital can be made habitable or alternative suitable living accommodations can be found.

(3) The commissioner shall be notified immediately of the occurrence of any catastrophe.

(q) No operating certificate is transferable.]

(j) Every specialty hospital that provides a service which is reimbursable under Medicare provisions of the Social Security Act shall make application to be an approved provider of such services pursuant to program requirements. If approved, the specialty hospital shall participate in such program and make appropriate claims for payment in any instance in which a patient is eligible for benefits under such program.

- **Existing paragraphs 680.4(a)(4), (5), and (9) are amended to read as follows:**

(4) The governing body of the specialty hospital shall develop working agreements with other providers, and/or use the services the agency is licensed to deliver in its other departments and/or units, to ensure delivery to individuals, as appropriate, special diagnostic, and medical services which the specialty hospital does not provide.

(5) The governing body of the specialty hospital shall develop working agreements with the OPWDD [Developmental Disabilities Services Office (see section 680.13 of this Part)] and [other] providers of services to ensure to the greatest extent possible, that opportunities exist in the community for movement of individuals, when appropriate, to less restrictive residential settings.

(9) The governing body shall develop and revise as necessary and provide to OPWDD for review and approval, written policies for the quantity, quality, scope, goals,

objectives and evaluation of all programs (see section 680.13 of this Part); and policies for the accomplishment of stated purposes and well-being of individuals. These policies shall include, but not be limited to:

(i) A statement of the facility's philosophy, objectives, and goals, specifying:

- **Existing clauses 680.4(a)(9)(iii)*(a)* and *(e)* are amended to read as follows:**

(a) specification of preadmission procedures which include requiring referral services to identify the person's specific conditions which necessitate hospitalization, that no other less restrictive setting can meet the needs of the individual, and the types of rehabilitation therapy requested;

(e) periodic review as defined in this Part of the appropriateness of the person's admission and continued stay in the specialty hospital;

- **Existing subclauses 680.4(a)(9)(iii)*(h)(2)* and *(3)* are amended to read as follows:**

(2) policies and procedures regarding dental services (see section 680.13) shall include, but not be limited to, emergency care; and

(3) policies and procedures regarding pharmacy services (see section 680.13 of this Part) and consultation to individuals shall include, but not be limited to, the safe administration and handling of all medication[drugs] in accordance with section 633.17 of this Title; [specifying the following:

(*i*) criteria and schedule for evaluations and treatment recommendations regarding self administration of medications by the person;

(*ii*) criteria for staff training regarding administration of medication by staff. Only appropriately trained staff shall be allowed to administer drugs as specified in existing State regulations and policy for administration of medication. For direct care staff to be allowed to administer drugs, they must complete a training program in administration of medication which has the prior approval of the commissioner, and drugs administered by such staff must be in unit dose form; and

(*iii*) all medication errors and drug reactions shall be reported immediately to the practitioner who ordered the drug. Adverse drug reactions shall be reported to the Federal Food and Drug Administration;]

- **Existing subclauses 680.4(a)(9)(iii)*(j)(1)* and *(2)* are amended to read as follows:**

Note: New material is underlined and deleted material is in [brackets].

(1) participation of the staff, the individual, where appropriate, the individual's guardian or correspondent, the individual's supporter under an applicable supported decision-making agreement, the family and the agent responsible for service delivery following discharge or transfer;

(2) due process for discharge or transfer in accordance with the requirements of section 633.12 of this Title as well as other requirements set forth by OPWDD; and

- **Existing subclause 680.4(a)(9)(iii)*(l)(2)* is amended to read as follows:**

(2) The specialty hospital may not group individuals on the basis of their physical handicaps unless the grouping is for concentrated treatment of health problems necessitating the individuals' admissions. Otherwise, individuals who are mobile, non-ambulatory, deaf, blind, who have epilepsy[epileptic], or who have other physical or developmental disabilities shall be grouped with other individuals of comparable social and intellectual development;

- **Existing clauses 680.4(a)(9)(iii)*(n)* – (r) are amended to read as follows:**

(n) the management of personal funds[maintaining a written financial record for each individual] in accordance with the requirements of sections 633.9 and 633.15 of this Title; [that is available to the individual and the individual's family (unless the individual is an adult who objects to the disclosure of such information to his or her family). This record shall include:

(1) written receipts for each individual's personal possessions and funds received by or deposited with the specialty hospital; and

(2) written receipts for all disbursements made to or for the individual;]

(o) practices to be followed in the event of emergencies. The administrator shall develop a written [staff organization] emergency preparedness plan with detailed [written]procedures for meeting all potential emergencies and disasters, such as missing individuals, severe weather, power outages, fires, floods, bomb threats and medical emergencies (*e.g.,* epidemics, pandemics, food poisoning, chemical poisoning, etc.). This plan shall be posted at suitable locations throughout the facility and clearly communicated to and [periodically]reviewed at least annually with all facility staff. [; and]Such plan shall include at least the following:

(1) instructions for using alarm systems and signals;

Note: New material is underlined and deleted material is in [brackets].

(2) assignment of personnel to specific tasks and responsibilities;

(3) specifications of evacuation routes and procedures which are posted at suitable locations throughout the facility;

(4) systems for notification of appropriate persons and government agencies;

(5) location of [firefighting]pertinent equipment, including firefighting equipment and personal protective equipment; and

(6) procedures for continuity of operations[methods of fire containment];

(p) [steps to follow in the event of any unusual occurrence, including, but not limited to serious illness, accident or impending death (*e.g.,* notification of family]notification to individuals' families, advocates, supporters under an applicable supported decision-making agreement, or correspondents regarding health care problems in accordance with section 633.10 of this Title;

(q) steps to follow in the death of a person. In addition to the death reporting requirements in Part 624 of this Title, steps must include[, including] notification of the [family and]medical examiner and arranging for an autopsy when required by the local medical examiner;

(1) In every case, the medical examiner should be immediately notified of a person's death.

(2) If the medical examiner releases the body to the facility for autopsy, the autopsy shall be performed by an impartial qualified physician who is not employed by the specialty hospital.

(3) The individual's correspondent shall be informed of the autopsy findings if [he or she]they so desire[s];

(r) reporting and management of incidents in accordance with Parts 624 and 625 of this Title:[special review procedures, including but not limited to:

(1) ensuring that all alleged violations of policies prohibiting mistreatment, neglect or abuse of an individual are reported and investigated. The specialty hospital shall have documentation of the following:

(i) All alleged violations are reported within 24 hours to the administrator, the Mental Hygiene Legal Service, the commissioner, the State Office of Health Systems Management and the State Office of Protective Services for Children or the corresponding local office (if

appropriate given the age of the client involved).

(ii) The administrator shall ensure that each alleged violation is investigated thoroughly.

(iii) The results of each investigation shall be reported to the administrator, commissioner, the Mental Hygiene Legal Service, the Commission on Quality of Care and Advocacy for Persons with Disabilities and the State Office of Health Systems Management within 24 hours of the report of the alleged violation.

(iv) The commissioner may require a separate investigation of an alleged violation to be carried on by staff of OPWDD, the district attorney's office or other law enforcement officials.

(v) A written report of incidents, with the investigation results, shall be sent to the Professional Advisory Board (see section 680.13) within 30 days of the incident, for all Willowbrook class members.

(vi) A written report of completed investigations at the specialty hospital shall be shared with the State Office of Health Systems Management.

(vii) If the alleged violation is verified, the administrator shall impose an appropriate penalty;

(2) ensuring that appropriate corrective action is taken to prevent similar accidents in the future;]

(1)[*(*iv)] personnel policies and procedures in accordance with the requirements of Part 633 of this Title, and also including:

[(a) hiring policies reflecting conformity to Federal laws governing civil rights and equal employment opportunities;

(b) job descriptions, which specify qualifications, education and skills required, description of duties and responsibilities and supervision to be provided;

(c) authorized procedures consistent with due process for suspension and/or dismissal of an employee for cause;

(d) protection of individual rights, including prohibiting mistreatment, neglect or abuse of individuals with procedures to be followed in the event that violations of

individual rights occur;

(e) staff training program:

(1) job description of an individual responsible for staff development and training;

(2) orientation procedures;

(3) in-service training; and

(4) use of community resources and consultants;]

(a)[(*f*)] policies to ensure that employees are medically determined to be free of communicable and infectious diseases; and

[(*g*) policy statements on salaries and increments, accumulation of leave and fringe benefits;

(*h*) policy and procedures to ensure the complaints by staff can be made without the threat or recrimination; and]

(b)[(*i*)] staff schedule for weekdays, weekends and holidays in accordance with the staff/individual ratios as specified in section 680.8 of this Part.

- **Existing paragraphs 680.4(b) (1), (2), and (3) are amended to read as follows:**

(1) The specialty hospital administrator shall maintain a current table of organization which shows the major operating programs of the specialty hospital, the administrative personnel in charge of the programs and divisions, and their lines of authority, responsibility and communication. This table of organization shall identify the person(s), including person(s) in other departments and/or units of the agency who provide services delivered under other licenses to individuals at the specialty hospital, and/or agencies providing services to the individuals on a contractual basis, including shared staff, if any.

(2) The specialty hospital administrator shall establish an appropriate standing committee[s] to deal with areas such as human rights,[aversive conditioning, research review,] medication errors, and infection control. Such committees shall maintain formal minutes of their activities.

(3) The specialty hospital administrator shall make available for distribution a summary of the laws, regulations and procedures concerning admission, readmission, and discharge [release] of a person.

- **Existing subdivisions 680.5(c) and (d) are amended to read as follows:**

(c) A specialty hospital shall admit only individuals with developmental disabilities as defined in

section 1.03(22) of the Mental Hygiene Law and as determined by the OPWDD through the eligibility process[who have a diagnosis of intellectual disability, autism, cerebral palsy, epilepsy or neurological impairment]; and who require active programming for their developmental disability(ies); and who manifest at least one severe deficit in adaptive behavior (see section 680.13 of this Part).[Such individual's developmental disability must have originated before the individual's 22nd birthday.] In addition, such individuals shall manifest a health care problem which requires more than three hours of daily individualized attention from health care staff (see section 680.13).

(d) Individuals admitted to a specialty hospital shall require simultaneous assessment or treatment for their health care needs and structured programming for their developmental disabilities. A specialty hospital covered under this regulation shall admit only individuals who have had a comprehensive assessment (see section 680.13 of this Part) within the 90 calendar days prior to admission. This assessment shall have identified both the individual's developmental disability[ ](ies) and health care needs which will require more than three hours of daily individualized attention from health care staff. In addition, there shall be an identification of the anticipated[specific] service(s) required by the individual [in terms of type and frequency and a declaration of the service outcomes to be achieved]which are congruent with the conditions necessitating admission. [A current individual program plan developed by a State developmental center for the individual within the 90 days prior to admission is considered as complying with this requirement. However, prior admission to a developmental center shall not be a requirement for eligibility for a specialty hospital.]

- **A new paragraph 680.5(e)(1) is added to read as follows:**

  (1) Individuals admitted to a specialty hospital shall require a letter(s) from a treating physician(s) recommending the specialty hospital placement and the reason(s) that a less restrictive environment is not sufficient.

- **Existing subdivision 680.5(h) is amended to read as follows**

(h) Individuals shall be admitted for a maximum stay of six months. One extension of no more than six months may be requested by the specialty hospital by submitting required documentation to OPWDD within a required timeframe.[made at the recommendation of the] The OPWDD Independent Utilization Review Committee, or an organization authorized by OPWDD to complete the Independent Utilization Review, shall approve or deny the request for the extension. Any further extension requires both the recommendation of the OPWDD Independent Utilization Review Committee, or OPWDD authorized organization, and the consent of the commissioner.

- **Existing paragraph 680.5(i)(2) is amended to read as follows**

  (2) For Willowbrook class members (see section 680.13 of this Part), at the time of admission, residence shall be identified by name and address for each individual's placement subsequent to leaving the specialty hospital. The sole exception to this requirement shall be constituted when the individual's treatment at the specialty hospital may make a less restrictive placement possible than is apparent at the time of their [his or her] admission. In this instance, the type of placement under consideration shall be described at the time of admission.

Note: New material is underlined and deleted material is in [brackets].

- **Existing subdivisions 680.6(a), (c), and (d) are amended to read as follows:**

(a) Each individual of a specialty hospital shall have an individual program plan which describes for the individual [his or her]their medical treatment for health-related problems and active programming for developmental disability(ies).

(c) Each individual program plan shall state the conditions requiring admission to a specialty hospital, the course of treatment and programs prescribed for these conditions and the anticipated outcomes of treatment and programs.

(d) The individual program plan shall be developed and implemented by an interdisciplinary team (see section 680.13 of this Part) including the providers of medical treatment and active programming and direct care staff. The individual and the individual's correspondent are part of the interdisciplinary team unless the individual is an adult capable of objecting to such participation and does object. One member of this team who is a qualified intellectual disability professional (see section 680.13) shall serve as[individual] coordinator (see section 680.13) with primary responsibility for implementation of the individual program plan, coordination of its components and for arranging movement of the individual[client] to a less restrictive environment as soon as the individual's needs permit. If the individual has a supported decision-making agreement (see Part 634 of this Title) that identifies a supporter or supporters to assist the individual in making decisions related to medical care, active programming, or other forms of therapeutic treatment, such supporter or supporters shall be considered part of the interdisciplinary team unless the individual objects to such participation.

- **Existing subdivision 680.6(f) is amended to read as follows:**

(f) The combination of goal-oriented health care, medical treatment, and active programming, excluding recreation, shall be at least six hours per day, five days per week in the manner recommended by each individual's interdisciplinary team and as documented in the individual program plan. The medical treatment and active programming for these conditions necessitating admission to the specialty hospital shall be provided with the frequency and duration prescribed by the individual's [I.T]interdisciplinary team and documented in the individual program plan. Thus, a person may receive more than six hours of medical treatment and structured programming per day, but can only receive less than six hours per day if a physician has certified in writing that such activities would be medically harmful to the individual. For Willowbrook class members, approval of the programming exemption must be obtained from the consumer [professional]advisory board.

- **Existing subparagraph 680.6(h)(2)(ii) is amended to read as follows:**

(ii) participation by the individual[and his or her] or their correspondent, unless the individual is an adult competent to object and objects to such participation; and the individual's chosen supporter or supporters if the individual has a supported decision-making agreement (see Part 634 of this Title) that identifies a supporter or supporters to assist the individual in making decisions related to medical care, active programming, or other applicable forms of therapeutic treatment;

- **Existing paragraphs 680.6(h)(3) and (4) are amended to read as follows:**

Note: New material is underlined and deleted material is in [brackets].

(3) At least quarterly, the coordinator shall send written notification of the individual's medical condition and progress in programs and services to the individual and, [the]individual's correspondent. If the individual has a supported decision-making agreement (see Part 634 of this Title) that provides that a supporter is to receive a copy of notice made to the individual, that supporter must also receive a copy of any notice specified in this section, unless the individual or the supporter specifies that they do not wish for the supporter to receive such notice.

(4) Prior to discharge or for an extended stay beyond six months and performed in accordance with individual need, an interdisciplinary team, as defined in section 680.13 of this Part, [consisting of individuals who are representative of the professions or services included in this Part (that are relevant in each particular case), including direct care staff,]shall conduct a comprehensive reassessment (based upon individual assessments) of each individual, covering self-care, medical[health], communication, learning, mobility and capacity for independent living.

- **Existing subparagraph 680.6(h)(5)(i) and (ii) are amended to read as follows:**

(i) the advisability of continued stay[residence] at the specialty hospital and alternative programs; and

(ii) review of the need for guardianship and how the individual may exercise [his or her]their civil and legal rights when the person legally becomes an adult.

- **Existing paragraph 680.6(j)(2) is amended to read as follows:**

(2) Record of program operations. In addition to records required in accordance with applicable provisions in Parts 624, 625, 633, and 635 of this Title, and other applicable provisions of this Part, t[T]he administrator shall maintain or cause to be maintained the following records of program operations:

(i) a chronological admission and discharge register which is a daily alphabetical listing of individuals admitted and discharged from the specialty hospital by name of individual, including referral and/or placement information;

[(ii) a daily census record including daily census and cumulative census for each month and year;

(iii) notation of all accident and incident reports;

(iv) fire drill records;

(v) dietary service record;]

(ii)[(vi)] records that document compliance with sanitation, health and environmental safety codes including written reports of inspections by State and local authorities having primary jurisdiction and records of action taken on their recommendations;

(iii)[(vii)] copies of all transfer and affiliation agreements; and

Note: New material is underlined and deleted material is in [brackets].

[(viii) a copy of the emergency disaster plan;]

(iv)[(ix)] a master plan for staffing[;].

[(x) a personnel record for each staff member including all available pre-employment information and, for professional staff, a copy of the current registration and license or certificate.]

- **Existing paragraphs 680.6(j)(3) and (4) are amended to read as follows:**

[(3) Confidentiality.

(i) The individual and his or her correspondent shall have access to the total record upon request unless proscribed by order of the court, or unless the person is an adult and objects to the correspondent's having access to the record.

(ii) The staff of the specialty hospital shall keep all medical, social, personal and financial information about an individual confidential and make it available only to persons authorized by law or by the commissioner.

(iii) The individual record is the property of the specialty hospital, which shall protect it from loss, damage, tampering or use by unauthorized individuals.

(iv) The specialty hospital shall obtain written consent of the individual, or the individual's next of kin or guardian before releasing information to persons who are not otherwise authorized to receive it.

(v) The specialty hospital shall have the individual's record available in his or her living unit.]

(3)[(4)] Central record service.

(i) The specialty hospital shall maintain a centrally administered record service for the collection and release of individual information.

(ii) The specialty hospital shall make records readily accessible to authorized personnel.

(iii) The specialty hospital shall retain all clinically oriented individual records in accordance with OPWDD requirements[']s Manual of Policy and Procedures].

(iv) The specialty hospital shall submit any data or information contained in the individual records, the record of program operations or any other agency records to the commissioner upon request. Such requested information shall be submitted in the format and manner prescribed by OPWDD.

- **Existing subdivision 680.7(b) is amended to read as follows:**

Note: New material is underlined and deleted material is in [brackets].

(b) Mandatory services (see section 680.13 of this Part under specific disciplines) include:

(1) medical services;

(2) nursing services;

(3) nutrition services;

(4) recreation services; and

(5) self-care services.

They shall be provided to each individual every day in accordance with a[n] person's [individual's] individual program plan and conform with the following requirements:

- **Existing subclauses 680.7(b)(5)(i)*(a)(3), (7),* and *(9)* are amended to read as follows:**

(3) developing and amending medical policies and procedures for matters such as physician and nurse practitioner visits, emergency coverage, records, consultations and participation in the interdisciplinary team processes and services;

(7) [semi-annual]physical examinations at least once during an admission for six (6) months, and minimally semi-annually when an individual had been approved by OPWDD for an extended stay, that include:

(9) tuberculosis control, in accordance with section 633.14 of this Title and the recommendations of the American College of Chest Physicians and/or the section on diseases of the chest of the American Academy of Pediatrics, as appropriate to the specialty hospital's population;

- **Existing subclause 680.7(b)(5)(iii)*(c)(7)* is amended to read as follows:**

(7) food shall be served in conformity with the following:

(i) Each individual shall be given the appropriate quantity of food, at an appropriate temperature, in a form consistent with the developmental level/medical need of each individual, and with appropriate utensils.

(ii) Meals shall be served at a time comparable to mealtimes existing in the community, unless medically contraindicated.

(iii) Food served to individuals and not consumed shall be discarded.

(iv) [Denial of a nutritionally adequate diet shall not be used

as punishment.]The composition or timing of regularly served meals shall not be altered for staff convenience or disciplinary or behavioral purposes in accordance with section 633.4 of this Title.

- **Existing clause 680.7(b)(5)(iii)*(d)* is amended to read as follows:**

(d) All individuals[, including those who are mobile nonambulatory,] shall eat in dining areas, except when contraindicated for health reasons or by decision of the team responsible for the individual's program. Individuals shall eat in an upright position unless medically contraindicated. Such medical recommendations shall be documented in the individual's program plan. Individuals shall eat in a manner consistent with their developmental/medical needs.

- **Existing subclause 680.7(b)(5)(iv)*(c)(4)* is amended to read as follows:**

(4) recreation services are coordinated with individualized health care, medical treatment and active programming and are derived from the interdisciplinary team and documented in the individual program plan[planning process].

- **Existing clauses 680.7(b)(5)(v)(*a), (b),* and (*c*) are amended to read as follows:**

(a) Each individual shall receive individually planned services and activities designed to improve [his or her]their ability to independently perform routine activities of daily living, including, but not limited to, bathing, brushing teeth, shampooing, combing and brushing hair, shaving and caring for toenails and fingernails. Items for these activities shall be issued to each individual and marked in a way that will appropriately identify each individual's items.

(b) A toilet training program shall be provided for each individual who does not have adequate self-toileting skills and does not have a documented medical condition which prevents the acquisition of these skills. Records shall be kept of the progress of each individual receiving toilet training. Individuals who are incontinent shall be immediately bathed or cleaned upon voiding or soiling unless specifically contraindicated by the training program as documented in the person[individual]'s individual program plan.

(c) Training in the activities of daily living shall be provided[,] and coordinated with the provision of other services to ensure that individuals who are able, develop or improve independent self-care skills.

- **Existing paragraph 680.7(c)(14) is amended to read as follows:**

(14) transportation services.

Note: New material is underlined and deleted material is in [brackets].

Selective services shall be available at all times to individuals who require them. Because a specialty hospital is designed to provide specialized treatment to individuals whose developmental disability and medical condition prevents movement to a less restrictive treatment alternative, selective services shall be delivered in such a manner as to a[e]ffect that movement as soon as possible. Therefore, it may be necessary to concentrate on particular types of services throughout an individual's stay at the specialty hospital while the provision of other kinds of habilitative services which a person needs are postponed until the person has reached the treatment goal of movement to a less restrictive placement. Selective services may be provided by staff of the specialty hospital, by agency staff that works in other departments or units separate from the specialty hospital, or through contract with other agencies in conformity with the following requirements. (However, the specialty hospital shall be solely responsible for all services provided to individuals in its care and no other department, unit, agency or hospital shall separately make claims for payment for these services. The specialty hospital shall be responsible for ensuring that no duplicate billing occurs.)

- **Existing subclause 680.7(c)(14)(i)*(a)(1)* is amended to read as follows:**

(1) directly by the specialty hospital, by another department or unit operated by the agency that operates the specialty hospital, or through contract between speech-language pathologists, audiologists (see section 680.13 of this Part under "Professional Staff") and individuals; and

- **Existing subclauses 680.7(c)(14)(i)*(b)(1) – (3)* are amended to read as follows:**

(1) development of receptive and/or expressive communication skills; and

(2) assessment of hearing loss and receptive and/or expressive language disorders, to include:

(i) comprehensive audiological screening, to include tests of pure-tone air and bone conduction, speech audiometry, and other procedures, as necessary, and to include assessment with the use of visual cues;

(ii) assessment with the use of amplification; and

(iii) for individuals who do not speak, assessment of the capability to benefit from instruction in signing, the use of assistive technology, augmentative and/or adaptive communication devices, [communication boards]or other methods to increase receptive and/or expressive language skills.

(3) comprehensive speech and language remediation of individuals including:

(i) instruction in signing, use of assistive technology,

augmentative and/or adaptive communication devices, [communication boards] and other devices to increase receptive and/or expressive language skills;

(ii) procurement, maintenance and replacement of hearing aids, as specified by a qualified audiologist;

(iii) reading service for individuals who are blind and interpretive services for individuals who are deaf; and

(iv) space, facilities, equipment and supplies adequate for providing efficient and effective communication services.

- **Addition of a new clause 680.7(c)(14)(i)*(c)* is added to read as follows:**

(c) The staff responsible for providing communication services shall ensure integration of these services with all other aspects of the person's individual program plan.

- **Existing clause 680.7(c)(14)(ii)*(a)* is amended to read as follows:**

(a) Comprehensive dental services shall be provided by the specialty hospital, by another department or unit operated by the agency that operates the specialty hospital, or through contract, which include the following:

- **Existing subclauses 680.7(c)(14)(ii)*(a)(4) and (5)* are amended to read as follows:**

(4) a recall system that will ensure that each individual is reexamined at specific intervals in accordance with [his or her]their needs and, for individuals approved by OPWDD for an extended stay, reexamination shall occur[, but] at least annually;

(5) a dental hygiene program that includes:

(i) instruction of individuals and staff at the specialty hospital in proper oral hygiene methods; and

(ii) instruction of parents or other care[ ]givers in the maintenance of proper oral hygiene, where appropriate.

- **Addition of a new clause 680.7(c)(14)(ii)*(b)* is added to read as follows:**

(b) The staff responsible for providing dental services shall ensure integration of these services with all other aspects of the person's individual program plan, as appropriate.

- **Existing clause 680.7(c)(14)(iii)(a) is amended to read as follows:**

(a) Educational services shall be provided for individuals [under] [21] 22 years of age or younger only when a person's health-related problems

and treatment for them prevent an individual from attending educational programs in the community and these services are recommended by the individual's interdisciplinary team. Under these circumstances, educational services shall be provided consistent with Federal and New York State Education law and regulations. [as directed by the interdisciplinary team in the least restrictive and most normalizing manner.]

- **Existing clause 680.7(c)(14)(iii)*(c)* is amended to read as follows:**

(c) [Available educational services shall include:

(1) instruction in self-care skills and activities necessary for self-preservation; and

(2) instruction in pre-academic and communicative and computational skill areas.] The staff shall ensure integration of these services with all other aspects of the person's individual program plan. The Individualized Educational Program (IEP) shall be included in the individual program plan.

- **Existing clause 680.7(c)(14)(iv)*(d)* is amended to read as follows:**

(d) The therapist shall ensure integration of these services with all other aspects of the person's individual['s] program plan.

- **Existing clause 680.7(c)(14)(v)*(a)* is amended to read as follows:**

(a) Optometric services shall be provided by a licensed ophthalmologist either directly by the specialty hospital, by another department or unit operated by the agency that operates the specialty hospital, or through written contract with another agency.

- **Existing subclause 680.7(c)(14)(v)*(b)(4)* is amended to read as follows:**

(4) a recall system that will ensure that each individual is reexamined at specific intervals in accordance with their[his or her] needs and, for individuals approved by OPWDD for an extended stay, reexamination shall occur [, but]at least annually.

- **Existing clause 680.7(c)(14)(vi)*(a)* is amended to read as follows:**

(a) Orthotic services shall be provided either directly by the specialty hospital, by another department or unit operated by the agency that operates the specialty hospital, or through written contract with another agency.

- **Existing subclause 680.7(c)(14)(vii)(*d)(3)* and *(4)* are amended to read as follows:**

(3) [Poisons,]D[d]rugs used externally and drugs taken internally

Note: New material is underlined and deleted material is in [brackets].

shall be stored on separate shelves or in separate cabinets at all locations.

(4) Medications that are stored in a refrigerator containing things other than drugs shall be kept in a separate locked compartment clearly marked to indicate that it contains medication.

- **Existing clause 680.7(c)(14)(vii)*(g)* is amended to read as follows:**

(g) Authoritative and recent antidote information, as well as the phone number of the regional poison control center, shall[should] be prominently displayed in the area where drugs are stored.

- **Existing item 680.7(c)(14)(vii)*(h)(1)(iv)* is amended to read as follows:**

(iv) disposal of excess, contaminated, and partial doses of parenteral controlled substances. Such disposal procedures shall be in conformance with all applicable Federal and State statutes or regulations including, but not limited to, section 633.17 of this Title[accordance with the New York State Public Health Laws, and the Comprehensive Drug Abuse and Prevention Act of 1970]; and

- **Existing subclause 680.7(c)(14)(vii)*(h)(3)* is amended to read as follows:**

(3) quality specifications established by the pharmacist for drugs purchased. The pharmacy shall ensure that these specifications are met. The compounding, packaging, labeling and dispensing of drugs shall be done by the pharmacist or under their[his] supervision, with proper controls and records. Samples and investigational drugs shall not be used. Whenever possible, drugs that require dosage measurement shall be dispensed by the pharmacist in a form ready to be administered to the individual.

- **Existing clause 680.7(c)(14)(ix)*(a)* is amended to read as follows:**

(a) Psychology services, including behavior support services, shall be rendered:

- **Existing subclause 680.7(c)(14)(ix)(a)(2) is amended to read as follows:**

(2) indirectly, through contact between psychologists, and other qualified staff members providing services to the individuals and their families. Indirectly provided behavior support services shall be delivered by a behavior intervention specialist as defined in paragraph 633.16(b)(38) of this Title.

Note: New material is underlined and deleted material is in [brackets].

- **Existing clauses 680.7(c)(14)(ix)*(c)* and *(d)* and new clause *(e)* are amended and added to read as follows:**

(c) Psychologists shall supervise behavior intervention specialists delivering indirect psychological services, participate in staff training, program development and program evaluation.

(d) Psychologists shall design and participate in therapies, and behavior support services, which assist individuals with orientation and adjustment to their disabilities, as well as providing compensatory mechanisms for their disabilities.

(e) The psychologist responsible for providing psychology services shall ensure integration of these services with all other aspects of the person's individual program plan.

- **A new clause 680.7(c)(14)(x)(e) is added to read as follows:**

(e) The therapist responsible for providing respiratory services shall ensure integration of these services with all other aspects of the person's individual program plan.

- **Existing clauses 680.7(c)(14)(xi)*(a), (b), (d)* and new clause *(e)* are amended and added to read as follows:**

(a) Social services shall be provided directly by or under the supervision of [certified] licensed social workers (see section 680.13 under "Professional Staff").

(b) Licensed s[S]ocial workers shall arrange for the use of other community resources, coordinate and provide liaison between the individual and community resources, including [the day program,]services of generic hospitals (see section 680.13), and other generic health care settings (see section 680.13), nursing homes, home health agencies, community social agencies and other service resources.

(*d)* Licensed s[S]ocial workers shall participate, when appropriate, in the continuing interdisciplinary evaluation of individuals for the purposes of implementation, monitoring and follow-up of individual program plans.

(e) The staff responsible for providing social services shall ensure integration of these services with all other aspects of the person's individual program plan.

- **A new clause 680.7(c)(14)(xii)*(c)* is added to read as follows:**

(c) The staff responsible for providing special medical services shall ensure integration of these services with all other aspects of the person's individual program plan, as appropriate.

Note: New material is underlined and deleted material is in [brackets].

- **A new clause 680.7(c)(14)(xiv)*(c)* is added to read as follows:**

(c) The staff responsible for providing transportation services shall ensure integration of these services with all other aspects of the person's individual program plan, as appropriate.

- **Existing subdivision 680.8(a) is amended to read as follows:**

(a) A description of and rationale for the specialty hospital's staffing pattern including both mandatory and selective services shall be submitted as part of the initial application for certification. This description shall specify for each service the programs to be offered and the number of individuals to be served by each staff member. Any changes in the staffing pattern, job descriptions and/or minimum qualifications of the staff must receive the prior approval of the OPWDD.

- **Existing subparagraphs 680.8(b)(1)(i) – (v) are amended to read as follows:**

(i) a degree of doctor of medicine or a master's degree or its equivalent in hospital administration, public health, science, administrative medicine or business administration when granted for a program in hospital administration, from a college or university accredited[approved] by the New York State Education Department or whose program is approved by the Association of University Programs in[of] Hospital Administration. Such person shall have a minimum of two years as the administrator, associate or assistant administrator of an accredited hospital or in health service administration acceptable to the commissioner; or

(ii) a degree as a registered nurse with a minimum of three years experience as an administrator, associate or assistant administrator of an accredited hospital, or in health services administration acceptable to the commissioner; or

(iii) a bachelor's degree from a college or university accredited[approved] by the New York State Education Department and has served a minimum of five years as an administrator, associate or assistant administrator in an accredited hospital, or in health services administration acceptable to the commissioner.[;]

[(iv) is, or has been, prior to January 1, 1968, the administrator of a hospital, or has served a minimum of seven years as an associate or assistant administrator of a hospital with a valid hospital operating certificate; or, prior to February 1, 1966, the administrator of a hospital, or has served a minimum of seven years as an associate or assistant administrator of a hospital which would meet the standards for hospital certification; and

(v) a minimum of two years experience with programs for individuals with developmental disabilities, one of which must be in a supervisory capacity.]

- **Existing paragraph 680.8(b)(4) is amended to read as follows:**

(4) The administrator shall continuously employ an adequate number of appropriately

qualified staff to carry out the program of prevention, diagnosis, treatment, habilitation and rehabilitation effectively. A written rationale for the staffing pattern utilized shall be prepared. If the specialty hospital is a unit of a general hospital or a program within an agency funded by OPWDD, then this rationale must clearly specify any regular use of personnel whose primary duty assignments are elsewhere in the general hospital or within the agency funded by OPWDD. (However, the specialty hospital shall be solely responsible for all services provided to individuals in its care and no other department, unit, agency or hospital shall separately make claims for payment for these services. The specialty hospital shall be responsible for ensuring that no duplicate billing occurs.)

- **Existing subparagraph 680.8(b)(4)(ii) is amended to read as follows:**

(ii) The specialty hospital shall not permit the physicians in training to perform a service for which a license is required by the State of New York except as a part of an approved training program and/or unless authorized on a temporary certificate to practice medicine at the specialty hospital. Such physicians in training or on a temporary permit are to be under the direct control and supervision of a currently registered and licensed physician.

(a) A training program, to be approved, must be accredited by the Council on Medical Education of the American Medical Association, the appropriate specialty boards or any other recognized approval body based on standards acceptable to OPWDD.

(b) With respect to the care of recipients of Federal health insurance and medical assistance only, training programs must comply with the requirements of applicable rules and regulations of the Secretary of Health and Human Services[Health, Education, and Welfare] pertaining to resident, intern and medical student training programs enacted to the Health Insurance for the Aged Act.

- **Existing paragraph 680.8(b)(5) is amended to read as follows:**

(5) There shall be at least one licensed physiatrist on the staff of [the] specialty hospitals that have an approved capacity of twenty (20) or more individuals. The physiatrist shall be [who is] present at the specialty hospital at least a portion of five (5) working days per week and visit[s] at least weekly all individuals requiring physiatric services. For specialty hospitals with an approved capacity of fewer than twenty (20) individuals, an on-staff physiatrist is not required.

- **Existing paragraphs 680.8(c)(1) - (3), (6), and (9) are amended to read as follows:**

(1) The specialty hospital shall have at least one full-time physician who is regularly on duty at such facility 40 hours per week. The required number of qualified full-time equivalent physicians on duty or on call shall be as follows:

(i) if the number of individuals is less than 125, one physician on duty at all times, or one nurse practitioner on duty at all times and one physician on call and available to the nurse practitioner at all times though not necessarily on site,

Note: New material is underlined and deleted material is in [brackets].

shall be required;

(ii) if the number of individuals is less than 200, but greater than 125, then one physician shall be on duty at all times and one physician shall be on call though not necessarily on site;

(iii) if the number of individuals exceeds 200, but is less than 225, two physicians shall be on duty at all times; and

(iv) if the number of individuals is greater than 225, the number of physicians on duty at all times shall be determined by the commissioner.

(2) There shall be on duty to provide nursing services during the first and second shifts one registered nurse for every 20 individuals; during the third shift, through the hours when individuals are sleeping, there shall be on duty one registered professional nurse for every 30 individuals. The calculation of this ratio shall exclude nurses who serve as supervisors and any on duty nurse practitioners as identified in subparagraph (c)(1)(i) of this subdivision.

(3) There shall be at least one qualified dietitian (see section 680.13 of this Part under "Professional Staff") to direct nutrition services.

(6) All supervisors of direct care staff [providing direct care services]shall be registered nurses, licensed practical nurses (see section 680.13 under "Professional Staff"), or qualified professionals from other clinical professions.

(9) There shall be a qualified intellectual disabilities professional (QIDP) who is responsible for supervising the implementation of each person[individual]'s individual program plan, integrating the various services received by each individual, recording each individual's progress and initiating periodic review of each individual program plan as stipulated by this regulation. All professionals assigned this responsibility shall have it clearly identified in their job descriptions with the number of hours allocated to this task.

- **Existing subdivision 680.8(d) is amended to read as follows:**

(d) The following professional staff shall be available [full time] either as employees of the specialty hospital, by agency staff that works in other departments or units separate from the specialty hospital, or through [written contract with another agency:] contract with other agencies in conformity with the following requirements. (However, the specialty hospital shall be solely responsible for all services provided to individuals in its care and no other department, unit, agency or hospital shall separately make claims for payment for these services. The specialty hospital shall be responsible for ensuring that no duplicate billing occurs.)

- **Existing paragraphs 680.8(d)(3) - (12) are amended to read as follows:**

[(3) at least one developmental specialist (see section 680.13 under "Professional Staff") for every six individuals requiring educational services;]

Note: New material is underlined and deleted material is in [brackets].

(3[4]) at least one occupational therapist for every 20 individuals requiring occupational therapy;

(4[5]) a specialist in orthotics (see section 680.13 under "Other Staff") who shall have the necessary resources in available staff, equipment and funds to design, construct, modify and repair adaptive equipment to meet the needs of individuals;

(5[6]) a registered pharmacist;

(6[7]) at least one physical therapist for every 20 individuals requiring physical therapy;

(7[8]) at least one licensed[certified] psychologist for all individuals requiring psychological services. Additional master's level psychologists may be used under the supervision of a licensed[certified] psychologist at a ratio of 1:50 for individuals requiring psychological services;

(8[9]) at least one licensed social worker for every 40 individuals;

(9[10]) the specialty hospital shall employ sufficient mid-level supervisors (see section 680.13) to ensure that there will be one such person present and on duty for each 24 individuals on both the day and evening shifts, and one such person present and on duty for each 48 individuals during the night shift;

(10[11]) personnel and vehicles to transport individuals comfortably and safely; and

(11[12]) if shortages of personnel exist in a particular clinical discipline for programs and services offered by the specialty hospital, and the specialty hospital has made a good faith effort to recruit replacements, OPWDD shall assist the hospital in recruiting and hiring of personnel when individuals in the facility demonstrate the need for this clinical expertise.

- **Existing subdivision 680.8(f) is amended to read as follows:**

(f) There shall be a staff training program provided to all employees, in addition to training required in section 633.8 of this Title, that includes:

- **Existing subdivision 680.9(a) is amended to read as follows:**

(a) Each agency operating a specialty hospital shall have a utilization review committee and a written utilization review plan for evaluation of the need for services provided to individuals that shall be approved by the OPWDD. The utilization review committee and the utilization review plan shall comply with the following minimum requirements:

- **Existing subparagraphs 680.9(a)(1)(i) and (ii) are amended to read as follows:**

(i) The utilization review committee shall be composed of professionals (as defined in section 680.13 of this Part), including at least:

(a) two physicians or one physician and one nurse practitioner; and

Note: New material is underlined and deleted material is in [brackets].

(b) other professional staff (as described in section 680.13) who are representatives of the disciplines in the specialty hospital.

(ii) No member of the utilization review committee shall participate in the committee's deliberations regarding any individual [he or she is] they are treating directly.

- **Existing subparagraphs 680.9(a)(2)(iii), (iv), and (v) are amended to read as follows:**

(iii) The utilization review plans must provide that each individual's[recipient's] record includes information needed for the utilization review committee to perform the required utilization review.

(iv) The utilization review committee shall assure confidentiality with respect to individuals[clients] and physicians in its minutes and in its reports. Individuals[Clients] will be identified by medical chart number and physicians by physician employee number.

(v) The utilization review plan shall require the utilization review committee to perform the following reviews:

(a) An admission review within three days of admission to ensure that any person admitted to the facility meets the admission criteria and that the facility services are at the appropriate level of care for the individual.

(b) A continued stay review within 30 days of admission, and every six months subsequent to the date of admission when an extension has been approved by OPWDD, to ensure that the individual meets the criteria for continued stay and that the facility's services are meeting the individual's needs.

- **Existing subdivisions 680.9(b) – (d) are deleted and amended to read as follows:**

[(b) There shall be at least a semiannual independent utilization review and an annual independent professional review of the individual at the specialty hospital performed by professionally qualified persons selected and funded by OPWDD.

(c) Each specialty hospital facility shall provide the information required for these reviews, on forms and in the format prescribed by OPWDD.

(d) In addition to the internal utilization review required in this section, there shall be at least a semiannual independent utilization review and an annual independent professional review of the population. More frequent reviews may be performed as determined by OPWDD. Such reviews will be performed by professionally qualified persons selected and funded by OPWDD. Each specialty hospital shall provide information required by these reviews, on the forms and in the manner prescribed by OPWDD.]

(b)[e] In addition to the requirements for admission and continued stay [review] requests, the specialty hospital's utilization review plan shall describe the methods the utilization review

committee uses to select and conduct health and habilitation care reviews[evaluation studies]. The purpose of such reviews [studies] shall be to promote the most effective and efficient use of the specialty hospital's facilities and services consistent with individual needs and professionally recognized standards of health and habilitation care. Such reviews[studies] shall emphasize identification and analysis of patterns of care and shall recommend appropriate changes that will maintain consistently high-quality care along with effective and efficient use of services.

(1) The health and habilitation care [evaluation] plan shall outline the utilization review committee's determination of the methods to be used in selecting and conducting the evaluation reviews [studies] in the hospital.

(2) Each health and habilitation care review[evaluation study] shall document:

(3) Each health and habilitation care review[evaluation] shall:

(4) Data that the utilization review committee uses to perform the reviews[evaluation studies] shall be obtained from one or more of the following sources:

(5) The specialty hospital shall have at least one health and habilitation care review[evaluation study] in progress at any given time and shall complete at least one review[study] each calendar year.

(c) The OPWDD Independent Utilization Review Committee, or the OPWDD authorized organization, shall at least annually complete an independent utilization review of each individual at the specialty hospital, or sooner when clinically indicated and requested by OPWDD.

(1) Each specialty hospital facility shall provide the information required for the OPWDD Independent Utilization Review Committee review on forms and in the format prescribed by the OPWDD and within the OPWDD prescribed timeframes.

(2) More frequent OPWDD Independent Utilization Committee reviews may be performed as determined by the OPWDD. Each specialty hospital shall provide information required by these reviews in the manner prescribed by the OPWDD and within the OPWDD prescribed timeframes.

- **Section 680.10 is repealed and reserved:**

- **Existing section 680.11 is amended to read as follows:**

(a) Issuance of an operating certificate by the OPWDD shall be dependent upon the facility meeting environmental standards prescribed by the Department of Health for medical treatment and health-related services which are provided to individuals whether or not they have a developmental disability.

(b) A waiver may be obtained from the OPWDD for requirements of medical and health-related services which are not appropriate to the individuals served or are provided through a contractual

agreement by another agency.

- **Existing section 680.12 is deleted and amended to read as follows:**

(a) Rates of payments made for specialty hospital services rendered to Social Security Act Title XIX (Medicaid) recipients shall be at the levels set forth in the approved New York Medicaid State Plan. The rates shall be contingent upon federal financial participation (FFP) and approval.

- **Existing paragraphs 680.13(a)(1), (2), and (4) are amended to read as follows:**

(1) a comprehensive annual interdisciplinary assessment of the individual conducted by the interdisciplinary team. This comprehensive annual interdisciplinary assessment is based on discipline-specific assessments and includes an analysis of the individual's developmental disability and skills and deficits in all areas of adaptive behavior and medical need(s);

(2) preparation of a written [comprehensive]individual program plan which includes a series of service plans that set forth:

(4) minimally a quarterly review of the individual's program plan, or sooner if clinically indicated, by the staff involved in carrying out the plan. This includes review of the individual's progress toward meeting the plan objectives, the appropriateness of the individual program plan and consideration of benefits of alternate methods of care.

- **Existing subdivision 680.13(c) – (bk) are amended to read as follows:**

(c) **Adaptive behavior.** Results of an assessment based on a standardized instrument as appropriate to the area being assessed which indicate that the individual evidences one or more of the following characteristics:

(1) Communication.

(i) *Moderate deficit.* The individual has some expressive and/or receptive communication skills but needs staff assistance and/or training to communicate self-care needs.

(ii) *Severe deficit.* The individual has no expressive and/or receptive communication skills.

(2) Independent living.

(i) *Moderate deficit.* The individual needs assistance and/or training to perform those tasks which would enable them to be a participating member of a household (*e.g.*, using the telephone, using cooking instruments, using laundry equipment).

(ii) *Severe deficit.* The individual is not capable of self-preservation and/or is dependent on others for all household activities.

(3) Learning.

(i) *Moderate deficit.* The individual evidences an IQ of 50 to 69 on an individually administered, standardized test of intellectual functioning which has been administered by or under the supervision of a qualified psychologist. This test shall have been administered within one year of admission for individuals under 21 years of age, and within the past three years for individuals over 21 years of age. For individuals over 21 years of age, the person's reading and computational skills are at the third-grade level or below as documented by a standardized instrument.

(ii) *Severe deficit.* The individual evidences an IQ of less than 50 or is untestable (as certified by a qualified psychologist) on an individually administered, standardized instrument assessing cognitive functioning; or demonstrates no pre-academic skills. This test shall have been administered within one year of admission for individuals under 21 years of age. Or, for individuals over 21 years of age, the person's reading and computational skills are at the first-grade level or below as documented by a standardized instrument.

(4) Mobility.

(i) *Moderate deficit.* The individual has some mobility skills (*e.g.,* achieves limited independent movement with wheelchair or supportive devices) but needs staff assistance and/or training to move about.

(ii) *Severe deficit.* The individual is non-ambulatory and totally dependent on others for moving from one place to another.

(5) Self-direction.

(i) *Moderate deficit.* The individual demonstrates a lack of internal control and direction in their interpersonal or individual behavior as evidenced by monthly or more frequent exhibition of any of the following inappropriate behaviors requiring individualized programming:

(a) resists supervision;

(b) temper tantrums;

(c) verbally abusive to others;

(d) wandering, roaming or running away;

(e) inappropriately handles/plays with body wastes;

(f) eats nonfood substances;

(g) ritualistic or perseverative behaviors which interfere with social relationships;

(h) other behavior inappropriate to social situations; or the individual needs assistance and/or training while attending to activities related to managing personal affairs within the general community (*e.g.,* handling personal finances, using neighborhood stores for shopping and other community resources).

(ii) *Severe deficit.* The individual demonstrates a lack of internal control and direction in their interpersonal or individual behavior as evidenced by weekly or more frequent exhibition of the following inappropriate behaviors requiring individualized programming:

(a) actively resists supervision;

(b) temper tantrums;

(c) verbally abusive to others;

(d) wandering, roaming or running away;

(e) inappropriately handles/plays with body wastes;

(f) eats nonfood substances;

(g) ritualistic or perseverative behaviors which interfere with social relationships;

(h) other behavior inappropriate to social situations; or the individual is completely dependent on others for management of their personal affairs within the general community.

(iii) *Public auspices.* The administrative operation of a facility certified as a specialty hospital under article 31 of the Mental Hygiene Law by an executive agency of the State of New York or by a local governmental unit.

(d[c]) *Administrator*. The person designated by the governing body to be responsible and accountable for the daily operation of the specialty hospital.

(e[d]) *Assessment.* The process[,] performed or supervised by qualified professionals, that identifies the present medical and/or developmental status of the individual, including diagnosis; [his or her]their strengths, abilities and needs; and the conditions that impact upon the individual's development and/or medical condition(s).

(f[e]) *Audiological services.* A communication therapy that provides assessment, treatment, counseling and rehabilitation of individuals toward the maximum development and retention of hearing[(a selective service)]. Audiological services are a selective service when provided in a specialty hospital.

(g[f]) *Authorized persons.* Those persons who may have access to specific individual program and clinical records. Such persons include the individual (for [his or her]their own record), the

individual's correspondent (unless the individual objects to such access), staff of OPWDD, staff of the agency providing the service (unless the agency as a matter of policy wishes to limit its own staff's access to records), authorized staff of agencies from which the individual [or his or her] or their correspondent or present service provider have requested service, and the Willowbrook Consumer Advisory Board (CAB)[Review Panel] for Willowbrook class members. If the individual has a supported decision-making agreement (see Part 634 of this Title) that authorizes a supporter or supporters to obtain personal or clinical information in accordance with section 82.05 of the Mental Hygiene Law, such supporter or supporters shall be permitted access to the specific individual program and clinical records described in this subdivision. Other persons or groups may be authorized through court order.

(h[g]) *Certificate of need review.* Process required by section 16.09 of the Mental Hygiene Law and Part 620 of this Title.[P.L. 93-641 (the Health Planning and Resource Development Act of 1974), sections 31.22 and 31.23 of the New York Mental Hygiene Law, and Part 51 of this Title; which requires the commissioner to review and approve new programs or capital expenditures on the basis of need, fiscal viability, character and competence of sponsors and probable conformity with operating standards. With reference to specialty hospitals, this certificate of need review is required for each new program that is a specialty hospital program, and/or which involves construction, reconstruction, renovation, or purchase with an estimated cost of more than $100,000.]

(i[h]) *Certified capacity*. The maximum number of individuals who may reside in the specialty hospital. This is specified on the operating certificate.

(j[i]) *Commissioner*. The commissioner of the New York State Office for People With Developmental Disabilities.

(k[j]) *Communication services.* The provision of assessment, treatment, and counseling of individuals for the maximum retention or enhancement of hearing (audiological) and expressive and/or receptive (speech) language skills. Communication services are a selective service when provided in a specialty hospital[(a selective service)].

(l[k]) *Coordinator.* A qualified intellectual disability professional (QIDP) designated by the administrator to supervise the implementation of each individual program plan, integration of services received by each individual, and recording of each individual's progress; and to initiate periodic reviews as required by this Part.

(m[l]) *Correspondent.* An individual,[(]not on the staff of the specialty hospital,[)] who assists the individual and the interdisciplinary team in the program planning process. The correspondent also receives notification of significant events in the life of the person as stipulated in this regulation. Selection of a correspondent will be made as follows:

(1) In the first instance, a *correspondent* would be the [parent,] legal guardian [or committee]of the person with requisite authority.

(2) If the individual is an adult and does not have a legal guardian with requisite authority, the *correspondent* would be the person so designated by the individual.

(3) If the individual does not, or cannot, designate someone to serve as *correspondent*, or if the individual is a minor, the *correspondent* would be the parent listed in the person's permanent record. If parents are deceased, or their whereabouts cannot, with due diligence, be ascertained, or they have failed to designate an appropriate

representative[, and there is no guardian or committee], then the correspondent shall be defined as the relative or other individual, if any, in closest relationship with the individual who has, at least once within the previous year, manifested interest in the individual by communicating with the specialty hospital regarding the individual or by visiting the individual.

([2]4) If none of the above can be located, or if such person or persons refuse to participate in the program planning process for the individual, the administrator shall designate a substitute to act as the individual's correspondent, unless the person is a Willowbrook class member. For Willowbrook class members, the correspondent in this instance shall be a member of the consumer advisory board established by the Willowbrook Consent Judgment.

(n[m]) *Dental services.* The provision of diagnostic services and comprehensive dental treatment, including emergency coverage[(a selective service)]. Dental services are a selective service when provided in a specialty hospital.

(o[n]) *Disability, developmental*. A developmental disability as defined in section 1.03(22) of the Mental Hygiene Law.

(p[o]) *Distinct part*. An identifiable unit (or units) within a facility which meets all requirements for a specialty hospital as specified in this regulation. The distinct part is an identifiable unit such as an entire living unit or contiguous space in a wing, floor or building. It consists of all residential space and related accommodations in the unit and houses all individuals for whom payment is being made for specialty hospital services. The distinct part shall be a clearly identifiable entity, but may share such central services as management services, building maintenance, laundry, etc., with other units.

(q[p]) *Education services.* The provision of instruction delivered under the Individualized Education Program (IEP) as required by Federal and State laws and regulations for individuals until the day before the student's twenty-second (22nd) birthday. The IEP is included in the specialty hospital's individual program plan. Education services are a selective service when provided in a specialty hospital.[assessment, design of an individual educational plan, and provision of training in cognitive, social, and sensorimotor skills and activities of daily living. Educational services are provided by a specialty hospital only if a person cannot attend a program sponsored by the State Education Department because the individual is receiving prescribed medical treatment during the hours when such programs are offered or is certified by a physician as being unable to attend such a program because of a health related problem.]

(r[q]) *Generic hospital or health care setting.* A facility or agency providing treatment and care of human disease, pain, injury, deformity, or physical condition and which does not limit its services only to individuals with developmental disabilities.

(s[r]) *Generic health care setting.* See "generic hospital".

(t[s]) *Generic services.* Those services offered or available to the general public, as distinguished from specialized services that are intended only for individuals with developmental disabilities.

(u[t]) *Governing body.* The policy-making authority, whether an individual or a group, that exercises general direction over the affairs of the specialty hospital and establishes policies concerning its operation for the welfare of the individuals it serves.

Note: New material is underlined and deleted material is in [brackets].

(v[u]) *Habilitative program.* Services, therapies, and activities designed to facilitate the intellectual, sensorimotor and effective development of a person through the acquisition of skills for daily living. These skills are of three kinds:

(1) Self-care and personal hygiene. These skills pertain to the performance of essential daily functions such as toileting, bathing, dressing, grooming, eating and administration of medication. They also include development of skills which facilitate movement from place to place within residential and program settings.

(2) Abilities to be a participating member of a household. These skills pertain to tasks which performed individually or with others, enable an individual to manage a home environment independently. They include food preparation, cleaning, and caring for clothing. They also encompass the social amenities which enable an individual to live with others without assistance from external care providers.

(3) Abilities to be a participating member of a community. These skills enable an individual to use generic resources available outside a household within a public setting. They include money management and utilization of generic services (described in subdivision [u] of this section) for transportation, shopping, recreation, and medical care.

(w[v]) *Health care staff.* Includes, but is not limited to, the following: physicians, dentists, nurse practitioners, registered nurses, licensed practical nurses, or direct care staff performing services under the supervision of any of these.

(x[w]) *Health-care problem.* Includes at least one of the following:

(1) an acute or chronic condition requiring treatment and/or surveillance by a physician and other health professionals to reflect its amelioration or prevent its worsening. This includes disease, pain, injury, and deformity; and

(2) an inability to independently perform personal hygiene (toileting, bathing, etc.) which could lead to a condition described in paragraph (1) of this subdivision if assistance, training and/or supervision of self-care skills is not provided by trained staff.

(y[x]) *Individual program plan.* The comprehensive written plan of intervention and action that is developed based on [the basis of] assessment findings, reviewed at least quarterly or more frequently when clinically indicated, and modified at frequent intervals with the participation of the interdisciplinary team providing mandatory and selective services[service providers], the individual and, as appropriate, family, [or]correspondent, and supporter(s) of the individual. It specifies measurable goals and behavioral objectives; identifies a continuum of development; outlines in progressive steps the services to be provided; identifies and describes treatment methodologies designed to achieve the objectives, and both intended and actual consequences of services and programs. The individual program plan is the [It is made up of the]sum total of assessments, service plans and all other pertinent data.

(z[y]) *Interdisciplinary team.* That group of persons, acting as a unit, and representing those professions, disciplines, and service areas (including direct care) which are relevant for identifying an individual's needs, and providing programs and services to meet them. The interdisciplinary team [periodically] minimally reviews on a monthly basis the individual's

responses. The interdisciplinary team reviews and revises the individual program[s] plan at least quarterly, or more frequently based on clinical need. The individual and the individual's correspondent [from] form a part of the interdisciplinary team unless the individual is an adult capable of objecting to such participation and does object. If the individual has a supported decision-making agreement (see Part 634 of this Title) that identifies a supporter or supporters to assist the individual in making decisions related to medical care, active programming, or other applicable forms of therapeutic treatment, such supporter or supporters shall also be considered part of the interdisciplinary team unless the individual objects to such participation.

(aa[z]) *Least restrictive treatment alternative.* That intervention (including environment) into the life of an individual with developmental disabilities which is [consonant] consistent with the principles of normalization (see subdivision [(ah)] (ag) of this section) and the least intrusive into, and least disruptive of, the person's life and which represents the least departure from typical [normal] patterns of living, that can be effective in meeting the person's developmental and medical needs.

(ab[a]) Living unit. Residential space for one or more individuals, including sleeping areas, with appropriate furnishings and storage space. It may also include dining and activity areas.

(ac[b]) *Mandatory services.* Services required daily for all individuals of a specialty hospital which are to be provided by the staff of the specialty hospital. These include medical, nursing, nutrition, recreation, and self-care services (see subdivision [(aaa)](bb) of this section).

(ad[c]) Medical director. A physician currently registered and licensed to practice medicine in the State of New York who has been designated as being responsible for ensuring delivery of all medical services as specified in section 680.7 of this Part.

(ae[d]) *Medical services.* The services of a physician related to the referral for, and assessment of, diagnosis and treatment of physical and mental conditions of individuals and any referral based thereon[(a mandatory service)]. Medical services are a mandatory service when provided in a specialty hospital.

(af[e]) Mid-level supervisor. A nurse, licensed clinician, or administrator as designated by the medical director who [therapist assistant or nurse who]supervises the provision of services to individuals on the living units. A nurse or nurse practitioner acting as mid-level supervisor cannot simultaneously be responsible for providing nursing care, or care as defined in subparagraph 680.8(c)(1)(i) of this Part, directly to individuals, except in an emergency.

(ag[f]) *Normalization.* The principle of helping persons with developmental disabilities to obtain a lifestyle as close to typical[normal] as possible, by making available to them patterns and conditions of everyday life that are [close as possible to the]typical of norms and patterns of [the mainstream of] society[; specifically, through the use of means that are as culturally normative as possible to elicit and maintain behaviors and characteristics that are as culturally normative as possible] while also[,] taking into account local and [sub]cultural values and mores (also see "least restrictive treatment alternative").

(ah[g]) *Nursing services.* The periodic and continuing assessment of nursing care needs of individuals by a registered nurse and provisions of nursing care based thereon. Nurse practitioners providing care as defined in subparagraph680.8(c)(1)(i) of this Part are not included in the definition of nursing services. Nursing services are a mandatory service when

provided in a specialty hospital[(a mandatory service)].

(ai[h]) *Nutrition services.* Nutrition assessment, counseling, and provision of appropriate means to meet the dietary needs of each individual[(a mandatory service)]. Nutrition services are a mandatory service when provided in a specialty hospital.

(aj[i]) *Occupational therapy services.* The assessment and treatment of physical, effective, and social disabilities through expressive, manual, industrial, educational, recreational, or social activities[(a selective service)]. Occupational therapy services are a selective service when provided in a specialty hospital.

(ak) *On call.* Specialty hospital physicians (doctor of medicine or osteopathy) available to staff of the specialty hospital via various forms of communication, including, but not limited to, telephone, pager, electronic mail, etc., but are not necessarily on the premises (i.e., on site) of the specialty hospital.

(al) *On duty.* Specialty hospital employees working on the premises (i.e., on site) of the specialty hospital.

(am[j]) *OPWDD.* The Office for People With Developmental Disabilities and all of its administrative subdivisions.

(an[k]) *Optometric services.* Examination of eyes and correction of visual disabilities including the use of prostheses[(a selective service)]. Optometric services are a selective service when provided in a specialty hospital.

(ao[l]) *Orthotic services.* Design, construction, and modification of adaptive equipment to assist in the positioning of individuals for treatment, comfort, and mobility[(a selective service)]. Orthotic services are a selective service when provided in a specialty hospital.

(ap[m]) *Other staff.*

(1) *Dental hygienist.* A person licensed to practice as a dental hygienist by the New York State Education Department.

(2) *Orthotics specialist.* An individual with three or more years' experience in the design, construction, modification and repair of adaptive equipment; one year of this experience shall be with individuals with developmental disabilities.

(3) *Respiratory therapist.* A person certified to practice respiratory therapy by the National Board for Respiratory Therapy.

(4) Direct care staff. An employee who, by job description, is responsible for providing the day-to-day hands-on care, training, guidance, direction, assistance, support, etc. to individuals receiving services.

(aq[n]) *Pharmacy services.* The preparation, storage, dispensing and instruction in the use of medication[(a selective service)]. Pharmacy services are a selective service when provided in a specialty hospital.

(ar[o]) *Physical therapy services.* Assessment of an individual's neuromuscular or musculoskeletal disabilities and rehabilitative potential and the prevention and treatment of these disabilities. This may involve utilization of physical agents including heat, cold, electricity, water, or light; neuromuscular procedures which, through their physiological effect, improve or maintain the individual's functional level; and application and use of assistive devices which relieve pain, and preserve and/or improve range of motion, strength, tolerance, and coordination[(a selective service)]. Physical therapy services are a selective service when provided in a specialty hospital.

(as[p]) *Preventive program.* Application of various specified interventions and services to preclude the occurrence of a developmental disability or, if a developmental disability is already present, avert a recurrence or prevent increasing severity of impairment.

(at[q]) *Professional advisory board.* A seven member board, representing clinical disciplines, relating only to Willowbrook class members. Functions include, but are not limited to, advising on professional programs and plans, budget requests and objectives, investigations of any alleged dehumanizing practices and/or violations of human and legal rights.

(au[r]) *Professional staff.*

(1) Audiologist.

(i) *Certified professional.* A person licensed and currently registered as an audiologist by the New York State Education Department.

(ii) *Qualified intellectual disability professional.* In addition to licensing and current registration [permanent certification], the person has specialized training or one year of professional experience working with people with developmental disabilities.

(2) *Dentist.*

(i) *Certified professional.* A person licensed and currently registered as a dentist by the New York State Education Department.

(ii) *Qualified intellectual disability professional. Dentist* is not defined as a QIDP.

[(3) *Developmental specialist.*

(i) *Certified professional.* A person permanently certified in special education by the New York State Education Department.

(iii) *Qualified intellectual disability professional.* In addition to permanent certification, the person has specialized training or one year of professional experience working with people with developmental disabilities.]

(3[4]) *Dietitian.* A person who has received a baccalaureate degree with major studies in food and nutrition from a college or university accredited[approved] by the New York State Education Department and is registered or is eligible for registration by the American Dietetic Association, or has the equivalent of such training and experience and who participates annually in continuing dietetic education.

(4[5]) *Licensed practical nurse.* A person licensed and currently registered as a practical nurse by the New York State Education Department. A person so qualified may function as a professional staff member only if supervised by a registered nurse.

(5) *Licensed nurse practitioner.*

(i) *Certified professional.* A person licensed and currently registered as a nurse practitioner by the New York State Education Department.

(ii) *Qualified intellectual disability professional.* In addition to licensing and current registration, the person has specialized training or one year of professional experience in treating people with developmental disabilities.

(6) *Occupational therapist.*

(i) *Certified professional.* A person licensed and currently registered as an occupational therapist by the New York State Education Department.

(ii) *Qualified intellectual disability professional.* In addition to licensing and current registration, the person has specialized training or one year of professional experience in treating people with developmental disabilities.

(7) *Pharmacist.* A person licensed and currently registered as a pharmacist by the New York State Education Department.

(8) *Physical therapist.*

(i) *Certified professional.* A person licensed and currently registered as a physical therapist by the New York State Education Department.

(ii) *Qualified intellectual disability professional.* In addition to licensing and current registration, the person has specialized training or one year of professional experience in treating people with developmental disabilities.

(9) *Physician.*

(i) *Certified professional.* A person licensed and currently registered as a physician by the New York State Education Department.

(ii) *Qualified intellectual disability professional.* In addition to licensing and current registration, the person has specialized training or one year of professional experience in treating people with developmental disabilities.

(10) *Psychologist.*

Note: New material is underlined and deleted material is in [brackets].

(i) *Licensed [Certified] professional*. A person licensed and currently registered as a psychologist by the New York State Education Department.

(ii) *Qualified intellectual disability professional*. In addition to licensing and current registration, the person has specialized training or one year of professional experience in treating people with developmental disabilities.

(11) *Registered nurse.*

(i) *Certified professional.* A person licensed and currently registered as a registered nurse by the New York State Education Department.

(ii) *Qualified intellectual disability professional.* In addition to licensing and current registration, the person has specialized training or one year of professional experience in treating people with developmental disabilities.

(12) *Rehabilitation counselor.*

(i) *Certified professional.* A person certified by the committee on rehabilitation counselor certification.

(ii) *Qualified intellectual disability professional.* In addition to certification, the person has specialized training or one year of professional experience in treating people with developmental disabilities.

(13) *Social worker.*

(i) *Certified professional.* A person licensed and currently registered as a Licensed Clinical [s]Social W[w]orker or Licensed Master Social Worker by the New York State Education Department.

(ii) *Qualified intellectual disability professional.* In addition to licensing and current registration, the person has specialized training or one year of professional experience in working with people with developmental disabilities.

(14) *Speech-language pathologist.*

(i) *Certified professional.* A person licensed and currently registered as a speech-language pathologist by the New York State Education Department.

(ii) *Qualified intellectual disability professional.* In addition to licensing and [and] current registration, the person has specialized training or one year of professional experience in treating people with developmental disabilities.

(15) *Therapeutic recreation specialist.*

(i) *Certified professional.* A person meeting one of the following training and/or experience criteria:

(a) master's degree from an accredited college or university with major in

Note: New material is underlined and deleted material is in [brackets].

therapeutic recreation;

(b) master's degree from an accredited college or university with a major in recreation and one year of full-time professional work experience therapeutic recreation;

(c) master's degree from an accredited college or university in a field allied to therapeutic recreation and has two years of full-time professional work experience in therapeutic recreation;

(d) baccalaureate degree from an accredited college or university with a major in therapeutic recreation and three years of full-time professional work experience in therapeutic recreation;

(e) baccalaureate degree from an accredited college or university with a major in recreation and four years of professional work experience in therapeutic recreation under the supervision of a qualified recreation therapist; or

(f) baccalaureate degree in a field allied to therapeutic recreation (including physical education, art, music, or dance therapy) from an accredited college or university and five years of full-time experience in recreation programs for people with developmental disabilities under the supervision of a qualified recreation therapist.

(ii) *Qualified intellectual disability professional.* In addition to the qualifications above, the person has specialized training or one year of professional experience in working with people with developmental disabilities.

(av[s]) *Program.* The totality of services, therapies and interventions delivered to an individual admitted to a [of a]specialty hospital as prescribed by an interdisciplinary team and described in the person's individual program plan and record. Programs may be preventive, habilitative, rehabilitative or a combination of these alternatives depending upon the purpose and goals of the person's admission to a specialty hospital.

(aw[t]) *Psychology services.* Includes assessment, consultation, therapy (including the use of psychological counseling and behavior support services [management as treatment for maladaptive behavior]) and program development. The provision of psychological services shall be oriented toward the goal of enhancing the development of an individual's perceptual, sensorimotor, communication, social, emotional and cognitive skills, self-direction, and emotional stability [(a mandatory service)]. Psychological services are a selective service when provided in a specialty hospital.

(ax[u]) *Qualified intellectual developmental disability professional (QIDP).* See specific qualifications for each discipline defined under "professional staff".

(ay[v]) *Recreation services.* A planned program of meaningful social, [recreational,]leisure and other purposeful goal-[ ]based activities which are intellectually and interpersonally stimulating, and augment health maintenance. They may include, but are not limited to, recreational therapy services, but in any event the activities must be structured with identified methodologies and

measurable outcomes[(a mandatory service)]. Recreation services are a mandatory service when provided in a specialty hospital.

(az[w]) *Rehabilitation program.* Application of various specified therapies and services that are specifically designed on an individual basis [in order]to restore a person's previously held maximal level of functioning capacity. This capacity may be restored by either natural or artificial means.

(ba[ax]) *Respiratory therapy services.* Treatment as prescribed by a physician of chronic and acute lung and bronchial disorders. Respiratory therapy services are a selective service when provided in a specialty hospital.

(bb[ay]) *Self-care services.* Services and activities designed to meet the individual's personal hygiene and grooming needs. Based on the individual's skills and disabilities, such services and activities shall be provided as follows:

(1) the actual provision of toileting, bathing, brushing teeth, shampooing, combing, and brushing hair, shaving, caring for toenails and fingernails, dressing, feeding; and/or
(2) assisting and training individuals in the areas of personal hygiene and other activities of daily living.

(bc[az]) *Selective services.* Services which are required for some, but not necessarily all individuals receiving services in a specialty hospital. These may be provided by staff of the specialty hospital, by another department or unit operated by the agency that operates the specialty hospital, or by another agency through a written contract. These comprise preventive programs, habilitative programs and rehabilitative programs which include:

(bd[a]) *Service plan.* A component of the individual program plan which specifies interventions or staff actions to attain a specific goal or long-range objective determined by the interdisciplinary team. Each service plan specifies measurable goals, short-term behavioral objectives, projected attainment dates, activities, experiences or therapies designed to achieve the objectives, records to be kept, persons responsible for service provision, and schedules for review.

(be[b]) *Social services.* The use of social work methods oriented toward:

(1) the determination of the individual's eligibility for registration;

(2) the identification, assessment, treatment and management of a person's personal and social problems, especially those which may interfere with the use of services;

(3) prevention of further personal and social disabilities of the individual;

(4) enhancing the coping capacity of the person's family;

(5) safeguarding the human and civil rights of the individual and family and fostering the human dignity of the individual; and

(6) the coordination of programs and services for individual [(a selective service]. Social services are a selective service when provided in a specialty hospital.

Note: New material is underlined and deleted material is in [brackets].

(bf[c]) *Special diagnostic services.* The services of clinical laboratories and other diagnostic technologies (*e.g.,* X-ray, E.E.G., E.K.G.)[(a selective service)]. Special diagnostic services are a selective service when provided in a specialty hospital.

(bg[d]) *Special medical services.* The provision of medical treatment requiring a specialist, including but not limited to major or minor surgery, all procedures in which anesthesia is used, all procedures requiring the use of X-rays, cobalt therapy or nuclear medicine, and all nonsurgical procedures involving more than a slight risk of harm to the individuals[(a selective service)]. Special medical services are a selective service when provided in a specialty hospital.

(bh[e]) *Specialty hospital.* A facility including both program and site for which OPWDD has issued an operating certificate, pursuant to Mental Hygiene Law, article 16, to operate as a specialty hospital, and for which the New York State Department of Health[Social Services] has issued a Medicaid provider agreement.

(bi[f]) *Specialty hospital services.* These services include mandatory and selective services. Mandatory services are provided daily to all individuals receiving services in a specialty hospital by the staff of a specialty hospital. Selective services may be provided either by the staff of a specialty hospital, by another department or unit operated by the agency that operates the specialty hospital, or through written agreements by staff of contract agencies. Selective services are provided in the manner and frequency prescribed by an interdisciplinary team in a person's individual program plan. Mandatory and selective services combine to form preventive, habilitative and rehabilitative programs. Preventive, habilitative and rehabilitative programs define the purposes and goals of a person's admission to a specialty hospital.

(bj[g]) *Speech-language pathology services.* A communication therapy that provides assessment, treatment, and counseling of individuals for the maximum retention or development of expressive and/or receptive communicative skills[(a selective service)]. Speech-language services are a selective service when provided in a specialty hospital.

(bk[h]) *Transportation services.* The provision of appropriate transportation to and from the specialty hospital and to special services of the program which may be located separately. Transportation services are a selective service when provided in a specialty hospital.

- **Existing subdivision 680.13(bi) is deleted.**

- **Existing section 680.14 is deleted.**