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ARTICLE I**GENERAL****PART A****Agency Description****Sec. 27-102l(d)-1. Mission**

The Department of Veterans' Affairs (DVA) was established in 1986 with the Office of the Advocacy and Assistance (OAA) as its sole program. In July 1988 the Veterans Home and Hospital, which had been in operation since 1863, was incorporated as a program within the Department. A Commissioner was appointed to lead the agency and the Department embarked on a mission to provide comprehensive health, social and rehabilitative services to veterans of the State of Connecticut. Subsequently, The Veterans' Home and Hospital program was reorganized into two separate and distinct programs: Veterans' Hospital Services and Residential and Rehabilitative Services. Thereafter, two divisions of care were formalized; the Health Care Facility, tasked with providing professional health care services meets the requirements to participate in Medicaid and Medicare programs; and the Residential Facility, which provides housing and support services for veterans.

The Commissioner of Veterans' Affairs has all of the statutory powers and duties formerly vested in the Veterans' Home and Hospital Commission. The Department of Veterans' Affairs serves the needs of veterans pursuant to Section 102l(d) of the General Statutes Of Connecticut. The mission of the agency is "To Serve Those Who Served."

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102l(d)-2. Official address

The official address for the Department is:

STATE OF CONNECTICUT
DEPARTMENT OF VETERANS' AFFAIRS
287 WEST STREET
ROCKY HILL, CT 06067

(Effective January 19, 1996)

Sec. 27-102l(d)-3. Office of the commissioner

(a) The Commissioner of Veterans' Affairs shall be appointed by the Governor in accordance with the provisions of sections 4-5 to 4-8, inclusive, of the Connecticut General Statutes, with the powers and duties prescribed therein. The Commissioner ensures compliance with laws, rules and regulations governing the operations of the Department.

(b) The Office of the Commissioner includes the Commissioner, Executive Assistant and an Executive Secretary.

(Effective January 19, 1996)

Sec. 27-102l(d)-4. Board of trustees

(a) Pursuant to the General Statutes Of Connecticut, there shall exist a Board of Trustees. Members shall be appointed by the Governor and shall serve at the pleasure of the Governor.

(1) The Commissioner shall be a voting member of the Board.

(2) The Deputy Commissioner shall be a non-voting member, except when serving in the absence of the Commissioner.

(b) The Board shall meet in accordance to Section 27-102n(b) of the Connecticut General Statutes.

(c) The Board shall advise and assist the Commissioner in the operation of the Department.

(d) The Board shall review and approve regulations prior to adoption by the Commissioner concerning:

(1) Procedures relating to admission and discharge or transfers of veterans in the Home.

(2) A per diem fee schedule for programs, services and benefits provided therein.

(3) The participation of eligible family members in programs or services provided by the Home.

(e) The Commissioner may request the Board advise him on other regulations that the Commissioner may propose from time to time.

(f) The Board shall submit an annual report to the Governor and the Joint Standing Committee of the General Assembly having cognizance of matters related to public safety on its activities with its recommendations, if any, for improving the delivery of services to veterans, and the addition of new programs.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-5. Administration and support services

(a) **Affirmative Action Program:** In accordance with Connecticut's affirmative action statutes, Section 46a-68 and 46a-68a of the regulations of Connecticut state agencies, the Office of Affirmative Action shall be accountable for the administration of affirmative action, contract compliance, and other employee/patient rights protection programs. Under the direct supervision of the appointing authority, the Office of Affirmative Action ensures compliance with federal and state equal employment opportunity laws, regulations and guidelines; evaluates agency policies and procedures to ensure consistency with affirmative action goals and objectives; and directs the development of the agency affirmative action plan. The Affirmative Action Administrator performs patients' rights functions as determined by the appointing authority.

(b) **Safety and Security:** The Director of Safety & Security or designee shall ensure that the agency meets all Federal/State health and safety regulations (e.g. OSHA) as well as security requirements and investigates rules violations.

(c) **Fiscal/Administrative:** The Chief of Fiscal Administrative Services or designee shall ensure that all fiscal matters shall be administered as prescribed by state statute. This includes but shall not be limited to fiscal budget and purchasing requirements, the Data Processing Unit, Telecommunications Unit, and the Billing and Grants Department.

(d) **Human Resources:** The Agency Personnel Administrator or designee shall ensure that all employment and payroll laws and regulations shall be followed, and that any existing union agreements and Office of Policy and Management mandated policies and procedures shall be followed.

(e) **Planning Services:** The Director of Planning or designee shall coordinate both long and short range plans for the agency (2 to 5 years). The director seeks funding that the Agency may be eligible for from the federal government.

(f) **Food Service:** The Director of Food Services or designee shall monitor and provide meals to all residents of the Home. This includes meeting all health codes required by and the Federal Veterans Administration.

(g) **Physical Plant:** The Plant Engineer or designee shall provide two (2) types of services to the Department of Veterans Affairs under the Office of the Commissioner.

(1) Residential: Provides maintenance, housekeeping, laundry services and operates the facility's power plant and incinerator.

(2) Non-Residential: Manages three state veterans cemeteries according to State law.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-6. Residential programs

(a) The Veterans' Home consists of a Health Care Facility and a Residential Facility. A variety of rehabilitation programs and services aimed at assisting individual residents to achieve their highest level of functioning are provided to veterans in both settings. The Health Care Facility is licensed by the Connecticut Department of Public Health as a chronic disease hospital. The facility (or portions thereof) is also certified to participate in the Medicaid and Medicare programs in accordance with the Connecticut Department of Social Services' criteria.

(b) In addition to providing a Health Care Facility, a variety of specialized programs and services may be offered at the Department's discretion at the facility depending on need and funding. These specialized programs may include such programs as respite care, special treatment units for persons with dementia disorders including Alzheimer's, a hospice program and a substance abuse treatment program.

(c) The Residential Facility: provides room and board and programs for ambulatory veterans who reside in the Home. Programs shall be administered to encourage all veterans living in the Residential Facility, who are able to perform daily living activities to participate in programs targeted towards returning the veterans back into the community. The Veterans Home Director of the Residential Facility or designee shall be administratively responsible for the operation of the Residential Facility, which includes support and rehabilitation programs.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-7. Non-residential programs

(a) The Commissioner may appoint a Director to administer the veterans' Advocacy and Assistance unit for the aid and benefit of the veterans, their spouses and eligible dependents and family members.

(b) The Office of Advocacy shall have offices and at least one service officer in each of the five congressional districts as provided by law. Other sites may be established within appropriations and as need may warrant.

(c) Each office shall provide comprehensive assistance to veterans, their spouses and/or eligible dependents in obtaining rights, benefits and privileges to which they may be entitled under all federal, state and local laws.

(d) The Office of Advocacy and Assistance identifies veterans who may be assisted by the Department's Health Care and/or Residential Services and refers veterans for admission to the Veterans' Home. The Service Officers may contact former veterans who have relocated to the community and assist them in adjusting to this new life-style. OAA officers shall work with the Residential Facility to assist with employment services and continued veteran support.

(Effective January 19, 1996; amended October 11, 2007)

Secs. 27-102I(d)-8—27-102I(d)-19. Reserved

PART B

Personal Data Systems

Secs. 27-102I(d)-20—27-102I(d)-26.

Repealed, October 11, 2007.

Sec. 27-102I(d)-27. Records retention and disclosure statement

(a) All data and personal information pertaining to resident veterans are subject to the requirements of the federal Health Insurance Portability and Accountability

Act of 1996 (P.L. 104-191) (HIPAA), as amended from time to time, or regulations adopted thereunder. Upon admission, the department shall provide the veteran or the veteran's legal representative receives copies of the Department's "HIPAA Notice of Privacy Practices Summary", which is revised by the Department to reflect changes in Federal or State of Connecticut statutes and mandates to protect confidential and individual rights to privacy.

(Effective January 19, 1996; amended October 11, 2007)

Secs. 27-102I(d)-28—27-102I(d)-49. Reserved

PART C

Rules of Practice

Sec. 27-102I(d)-50. Procedures governed

These rules and regulations govern practices and procedures before the Department of Veterans' Affairs during hearings held in contested cases (e.g. Section 27-108(d) of the Connecticut General Statutes as amended), except where statutes and regulations otherwise provide. These rules and regulations may also be used during informal conferences and hearings held at the discretion of the Commissioner (e.g. review of appeals under Section 27-102I(c) (7) of Connecticut General Statutes.

(Effective January 19, 1996)

Sec. 27-102I(d)-51. Definitions

As used in the Rules of Practice, the following definitions shall apply to sections 27-102I(d)-50 to 27-102I(d)-79, inclusive, of the Regulations of Connecticut State Agencies: apply unless otherwise required by statute or regulation:

- (1) "Agency" means the Department of Veterans' Affairs.
- (2) "Applicant" means a person seeking assistance from the department including admission to the Home or other program offered to eligible veterans and who has not been granted admission based on a pending application.
- (3) "Commissioner" means the Commissioner of Veterans' Affairs or his designee.
- (4) "Complaint" means a statement of charges issued by the Department of Veterans' Affairs against a resident or program participant or a person with whom the department may have contact.
- (5) "Contested case" means a contested case as defined in subdivision (2) of Section 4-166 of the Connecticut General Statutes.
- (6) "Department" means the Connecticut Department of Veterans' Affairs.
- (7) "Desk review" means a person not involved in the investigation or action of the agency performs the following tasks:
 - (A) Reviews of written documents that agency staff prepared describing the facts known to them and the actions taken by the agency,
 - (B) Reviews any documents prepared and submitted to the agency by a party who is or may be affected by the agency action,
 - (C) Determines compliance with departmental regulations and policies, and
 - (D) Renders a written decision either affirming the action taken or reserving the decision under review.
- (8) "Final agency decision" means:
 - (A) A verbal or written agency decision made by the Commissioner following a grant of an appeal by a veteran from a decision made by staff other than the Commissioner,

(B) An agency decision by staff, other than the Commissioner, from which the veteran seeks no further review,

(C) A written agency decision in a contested case which is not subject to appeal to the Commissioner or to review by the Commissioner,

(D) A declaratory ruling issued by the agency, or

(E) An agency decision made after a reconsideration by the Commissioner.

(9) "Final decision maker" is the Commissioner or his designee.

(10) "Informal Conference" means a meeting to ensure compliance with departmental regulations, policies or practices by residents, program participants, staff, visitors and other persons with whom the agency may come into contact and to provide appropriate due process when the opportunity for a hearing is not required by law.

(11) "Hearing" means:

(A) A proceeding in a contested case,

(B) A proceeding that is not a contested case and that the Commissioner, at the Commissioner's discretion, has granted, or

(C) A proceeding resulting from a request for a declaratory ruling.

(12) "Home" means the Veterans' Home maintained by the state on its property or in leased units, including group living arrangements, transitional and supportive living, and convalescent and respite care in its facility in Rocky Hill.

(13) "Health Care Facility" means the portion of the Home, as defined in subdivision (12) of this subsection, which provides in-patient and out-patient medical care for veterans in other residential programs at the Department's facility in Rocky Hill, unless otherwise specified.

(14) "Patient" means a veteran admitted to the Home.

(15) "Person" means a veteran applying for or receiving services or benefits from the Department.

(16) "Petition" means:

(A) a claim or assertion of a wrongdoing alleged by an applicant, resident or program participant or any other party with whom the agency has direct or indirect contact,

(B) a request for an action by an applicant, program participant or veteran, and

(C) a request for a declaratory ruling.

(17) "Petitioner" means the party requesting the Commissioner to hold a hearing or informal conference on an agency action or proposed agency action or declaratory ruling.

(18) "Presiding officer" means the Commissioner or any person designated by the Commissioner as a hearing officer in a hearing or to manage an informal conference.

(19) "Program participant" means a person:

(A) Who is technically eligible,

(B) Who has been found eligible for a program offered by the department, including while in residence in the Home,

(C) Who accepted the admission to a program on terms as offered by the department, and

(D) Who has not been discharged since his most recent admission.

(20) "Proposed agency action" means either an action in a contested case or an action subject to an appeal to the Commissioner.

(21) "Representative" means an informal or formal agent of the petitioner or respondent, including a spouse, an adult child, an attorney, a conservator and any other party authorized by a program participant or a court of competent jurisdiction

to act on behalf of a party and who has informed the agency of such designation, or anyone provided by the Commissioner.

(22) "Resident" means a person:

(A) Admitted to the Home,

(B) Who has physically taken up residence at the facility, and

(C) Who has not been discharged since his most recent admission.

(23) "Respondent" means:

(A) A person against whom the department issued a complaint which asserts a violation of a statute or regulation properly coming under the jurisdiction of the Commissioner, and

(B) The department when in receipt of a petition.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-52. Waiver and construction of rules

(a) Where good cause appears and justice requires, the presiding officer may, sua sponte or upon application by a party, permit deviation from these rules, except where precluded by statute.

(b) Each party shall be given the opportunity to object to any deviation from these rules and may, at the presiding officer's discretion, be permitted to file a written objection after which the presiding officer shall render a written decision.

(c) These rules shall be construed liberally by the Commissioner, his designee, and the presiding officer to secure a just, speedy, and inexpensive determination of the issues presented at a hearing on the record or during an informal or formal conference.

(Effective January 19, 1996)

Sec. 27-102I(d)-53. Date of filing

All orders, decisions, findings of fact, correspondence, motions, petitions, complaints, applications, and any other document governed by these rules shall be deemed to have been filed or received on the date on which they shall be issued by the department or stamped received by the department.

(Effective January 19, 1996)

Sec. 27-102I(d)-54. Petition and complaint procedure

(a) Any applicant, resident, veteran, program participant, or his personal representative may file a petition whenever he has cause to believe he is aggrieved by a proposed agency decision and said decision cannot be made prior to an opportunity for a hearing:

(1) A petition may be in writing with the original signed by the petitioner and filed with the Commissioner,

(2) If a petitioner is not able to or capable of filing a written petition, the petitioner may verbally petition any employee or volunteer, with the exception of a veteran worker. The employee or volunteer shall reduce the request to writing and forward it to the Commissioner who shall take necessary measures to ensure the petition reflects the desire of the petitioner, including appointing a temporary advocate, or seeking appointment of a personal representative to follow through on any resulting hearing or informal conference. Any veteran worker shall inform his supervisor of any complaint he received under this section.

(b) The department may file a complaint against any resident, veteran or program participant when it believes that the person has violated one or more rules or regulations:

(1) A complaint shall be in writing, signed by the Commissioner or his designee and given to the resident or program participant and his representative, if applicable,

(2) If the Commissioner, or his designee, determines that the veteran is not able to or capable of responding to the complaint, the Commissioner may appoint a temporary advocate, or seek appointment of a personal representative, to respond to the complaint.

(c) A petition or a complaint should contain the following:

(1) The full name and address of the petitioner or complainant,

(2) The full name and address of the respondent,

(3) A reference to the section of the statute, regulation or rule alleged to have been violated by the respondent.

(4) A plain and simple statement of the facts, events or actions on which the filing is based,

(5) The date or time of the alleged violation or decision, if known,

(6) The location or place of violation or decision, if pertinent to the action, and

(7) Any other information necessary to inform the respondent about the general nature of the issue or issues involved in accordance with the requirements this section.

(d) In addition, a complaint filed by the department shall:

(1) State the proposed agency decision or the final agency decision as applicable, and

(2) Give notice to the respondent that he may be represented by legal counsel, if he so chooses.

(e) If known to the petitioner or complainant, the filing should indicate whether an informal conference or hearing was requested.

(f) The Commissioner may take no action on a filing that is deficient so as to present no justiciable issue or is anonymous, if after a reasonable effort to investigate he determines no benefit would be derived for any veteran, or the agency in pursuing the matter.

(g) A petition may be filed by personal delivery, regular, certified, or registered mail addressed to the Commissioner. A complaint may be filed by personal delivery, regular, certified, or registered mail addressed to the resident or program participant and his representative, if applicable. A complaint shall be filed with the Commissioner, if signed by any party other than the Commissioner.

(h) A resident or program participant shall file a petition within thirty days (30) of the date of the final or proposed agency decision in order to be eligible for a hearing on that matter or an informal conference.

(i) Any part of a petition or complaint may be withdrawn with the consent of the Commissioner upon such conditions as he may deem proper.

(j) The department may proceed with a hearing even if the resident leaves the home, or the participant terminates participation in a program, prior to commencing or completing the hearing or issuance of a hearing decision or final agency decision.

(k) The parties may resolve a petition or complaint by agreement.

(l) If a veteran fails to appear at a formally noticed hearing, the Commissioner may dismiss the petition or hold the hearing without the presence of the petitioner.

(Effective January 19, 1996)

Sec. 27-102I(d)-55. Investigations

(a) The Commissioner may initiate and conduct any investigation he deems necessary within his jurisdiction. With respect to filed petitions, the Commissioner may conduct a preliminary investigation to determine if said petition comes within

the jurisdiction of the department. If the petition does not come within the jurisdiction of the department, the petitioner shall be so notified.

(b) With respect to a petition within the jurisdiction of the department, the Commissioner may direct his staff to investigate the petition, if not already subject to a pertinent investigation.

(c) If the Commissioner is of the opinion that there is not sufficient evidence to establish the alleged violation after investigation of a petition or complaint, the action shall be dismissed.

(d) Pursuant to Section 27-102m of the Connecticut General Statutes, the Commissioner may investigate complaints regarding the conduct or treatment of veterans or family members in any program administered by the agency or authorized by Chapter 506 of the Connecticut General Statutes.

(1) The Commissioner may issue an administrative subpoena to compel the attendance of witnesses under oath or request the Office of the Attorney General to do so for the purpose of investigating any petition, complaint, or allegation under this subsection. The object of the subpoena may be the alleged offender or any other person who may have information necessary to ensure the safety, health, and welfare of the veteran at risk of injury or in peril.

(2) If the Commissioner determines that a veteran is not receiving proper care or has been ill treated or abused by any officer or employee, the Commissioner shall, in his discretion take any action authorized by law, to prevent any recurrence and any remedial action necessary, not otherwise precluded by law.

(3) If upon such investigation, the Commissioner finds that no adequate grounds exist for such complaint, the Commissioner shall certify that fact to the officer or employee involved and cause such officer's or employee's record to be cleared of the incident.

(Effective January 19, 1996)

Sec. 27-102I(d)-56. Emergency actions

(a) If a matter under investigation involves personal injury to another veteran, staff or visitor and/or where conduct that causes such persons to be at risk of injury or harm, the Director or Administrator may take whatever emergency actions shall be required to reduce or eliminate the peril, including involuntary discharge of the alleged offender and separation of parties, if multiple parties shall be engaged in the offensive conduct.

(b) Prior to ordering an involuntary discharge under subsection (a) of this section, the Director or Administrator shall:

(1) Receive a recommendation from the investigator, and

(2) Hold an informal conference with the veteran being discharged without notice and as soon as possible.

(c) After hearing from the veteran, unless absent without leave or if the veteran refuses to agree or acknowledge the controversy at issue, the Director or Administrator may:

(1) Order that an involuntary discharge be implemented immediately and schedule a follow-up informal conference to review and take additional evidence about the alleged offenses,

(2) Order an involuntary discharge and stay implementation pending the outcome of an informal conference or administrative inquiry if held,

(3) Accept a voluntary discharge from the veteran and allow the investigation to proceed as provided under the regulations of Connecticut state agencies which may or may not result in an involuntary discharge, or

(4) Take no action and allow the investigation to proceed as provided in the regulations of Connecticut state agencies.

(d) If a veteran is absent without leave, the Director or Administrator may order an involuntary discharge ex parte and comply with subsection (c) of this section when the whereabouts of the veteran become known.

(e) The Director or Administrator who takes any action under this section of the regulations shall notify the Commissioner by noon on the next business day, and inform the Commissioner as to the basis of said action and the whereabouts of the discharged veteran, if known.

(f) The Commissioner shall perform a desk review of all discharges under this section and may:

- (1) Affirm or reverse the emergency action, or
- (2) Order an informal conference or other proceeding to be held within five (5) days of the date of discharge after which he may affirm or reverse the emergency action. The Commissioner's decision shall be final.

(Effective January 19, 1996)

Sec. 27-102l(d)-57. Post investigation pre-hearing procedures

(a) Upon the completion of any investigation or review of a petition or a complaint, the Commissioner may grant an informal conference or a hearing, except the Commissioner shall grant a hearing where required by law to provide an opportunity for a hearing prior to making a final decision.

(b) Notwithstanding subsection (a) of this section, the department may provide a respondent opportunity for an informal conference prior to implementing or taking a proposed agency action, except as provided in Section 27-102l(d)-56. During the conference, the Department shall:

- (1) Explain the proposed action,
- (2) Summarize the factual basis for the proposed action,
- (3) Specify the rule or regulation allegedly violated, and
- (4) Allow the veteran an opportunity to present reasons why the proposed action should not be taken and offer evidence as to any material fact.

(c) The Commissioner may at his discretion designate a presiding officer for the purpose of conducting an informal conference or a hearing on a petition or complaint as provided herein.

(1) A presiding officer shall submit a proposed final agency decision to the Commissioner.

(2) Following an opportunity for a hearing or when a hearing is in fact held in a contested case during which the Commissioner is not the presiding officer, the final agency decision shall be made by the Commissioner based upon the record of the hearing.

(3) Following an informal conference, the final agency decision shall be made by the Commissioner or designee based on information available, including any report prepared by a presiding officer.

(d) If the Commissioner or his designee elects to hold an informal conference, the notice shall be in writing and the time and place for said conference shall be set. The notice shall set forth the issue or decision to be the subject of said conference.

(e) The decision of the agency following an informal conference shall be in writing and indicate what specific action the agency may or may not take, permit or order.

(1) If appropriate, the decision shall set forth specific dates on issues or actions subject to said conference,

(2) The agency decision following an informal conference may not constitute a contested case as defined in subsection (2) of Section 4-166 of the general statutes, as they may be amended from time to time. No right of appeal exists under subsection (c) in Section 4-183 of the Connecticut General Statutes.

(f) In a contested case, the notice of hearing shall comply with the provisions of section 4-177(a) of the Connecticut General Statutes and include:

- (1) Notice of right to be represented by counsel,
- (2) Notice of time within which a response shall be filed,
- (3) Notice of whether the hearing shall be conducted by the Commissioner or a presiding officer, and

- (4) A plain statement of the issue or issues to be heard during the hearing, including reference to specific statutory or regulatory authorities allegedly violated.

(g) In the event the agency files a complaint, the respondent's answer shall be in writing, signed by the respondent, his representative, or his attorney, and shall be filed with the Commissioner seven (7) days prior to the hearing, or during the hearing if the hearing is held sooner.

(h) Answers to a petition shall be filed no less than seven (7) days prior to the hearing unless otherwise provided by the regulations of Connecticut state agencies or by consent of the parties. If the agency cannot fully answer all issues raised in a petition, the agency may so state and provide such an answer following an investigation.

(i) An answer by the respondent shall contain:

- (1) A specific denial, admission, or denial of any knowledge sufficient to form a belief of each and every allegation of the petition or complaint,

- (2) A statement of any facts or claims which may constitute a defense,

- (3) The mailing address of the respondent, if other than the Veterans' Home and Hospital,

- (4) The name, address and telephone number of the respondent's attorney, if any, and

- (5) The signature of the respondent or his attorney.

(j) The failure to file an answer or respond to a portion of a complaint may be considered an admission by the party who failed to comply with subsection (i) of this section.

(k) The answer may be filed by personal delivery or by mail addressed to the Commissioner and all other persons designated by the Commissioner or his designee. Answers shall also be filed with the presiding officer, if known.

(l) The presiding officer shall proceed with the hearing at the time and the place specified in the notice of hearing notwithstanding any failure of a party to file an answer within the time provided. If no answer has been filed prior to the hearing, the respondent may be precluded from presenting evidence and defenses at the hearing.

(Effective January 19, 1996)

Sec. 27-102I(d)-58. Formal hearings

(a) The parties to any proceeding may consent by written stipulation to a hearing earlier than that provided in the notice of the hearing.

(b) A presiding officer shall:

- (1) Rule on all substantive and procedural motions,

- (2) Make findings of fact,

- (3) Take notice of statutory, regulatory and other legal authorities,

- (4) State conclusions of law upon which the decision is made,

- (5) Propose a final agency decision,

(6) Issue proposed final agency decision or a recommended final agency decision in a contested case,

(7) Set an order of presentation of witnesses and may limit the number and time for witnesses to avoid unnecessary cumulative evidence on a particular issue in the course of any proceeding,

(8) Exclude from the hearing room or from further participation in the proceedings any person who engages in improper conduct during a proceeding,

(9) Administer oaths and take testimony under oath, and

(10) Subpoena witnesses and require the production of records, papers, and documents. If any person disobeys such process or refuses to answer any pertinent questions put to him by the Commissioner or by the presiding officer, or produce any records or papers pursuant thereto, the Commissioner may apply to the Superior Court in the Judicial District of Hartford-New Britain, or to any judge of said court, if the same is not in session, setting forth such disobedience to process or refusal to answer.

(c) Hearings in contested cases shall be conducted in accordance with Section 4-177 of the Connecticut General Statutes as amended. Evidence conforming to the requirements of Section 4-178 of the Connecticut General Statutes, as may be amended from time to time, shall be received.

(d) Any motions not made during the hearing shall be in writing stating the order or relief applied for and the grounds therefor:

(1) The original and two copies of any such motion shall be filed with the presiding officer within seven (7) calendar days after date of notice of the hearing,

(2) Replies or objections to such motion, if any, with two copies shall be filed with the presiding officer within four (4) days,

(3) Copies of all motions and responses thereto shall be mailed to the respondent or the petitioner as the case may be.

(e) Two or more proceedings may be heard together at the presiding officer's discretion.

(f) The Commissioner or the presiding officer, on his own motion or written application of a party, shall order a party or the agency to prepare and present to the other party a copy of all or any relevant part of the agency's file or files in the name of the applicant, petitioner, resident or any other party concerning any issue or issues involved in the hearing, except as may be otherwise protected from disclosure by law:

(1) The Commissioner or the presiding officer, on his own motion or written application of a party, may receive said files, and make them available for inspection as provided in Section 4-177c of the Connecticut General Statutes,

(2) The presiding officer may exclude irrelevant or redundant evidence at his discretion.

(g) The presiding officer may continue a hearing from day to day or adjourn it to a later date or to a different place by announcement thereof at the hearing or by appropriate notice at his discretion.

(h) The presiding officer shall close a hearing at his discretion and may reopen a hearing within thirty (30) days:

(1) Upon application from the petitioner or respondent prior to a rendering of the decision or recommendation of the presiding officer and upon a representation that:

(A) Material evidence that could affect the outcome of the hearing is now available, and

(B) Good cause exists other than a failure to diligently research, investigate or prepare for the hearing, or

(2) On motion of the presiding officer, sua sponte, to take additional evidence on a material issue because justice so requires.

(Effective January 19, 1996)

Sec. 27-102I(d)-59. Parties, intervenors, and participants

(a) The presiding officer shall admit as a party any applicant, petitioner, or respondent in the hearing. In addition, the presiding officer shall consider all petitions filed in accordance with subsections (b) and (c) of this section and shall admit as a party any other person whose participation as a party is necessary to the proper disposition of such case and who shall be substantially and specifically affected by the proceeding.

(b) Any person who proposes to be admitted as a party to any proceeding shall file a written petition to be so designated not later than five (5) days before the date of the hearing of the proceeding as a contested case.

(c) A petition to be designated a party shall state:

(1) The name and address of the petitioner,

(2) The manner in which the petitioner claims to be substantially and specifically affected by the proceeding,

(3) The contention of the petitioner concerning the issue of the proceeding,

(4) The relief sought by the petitioner, if any,

(5) The statutory or other authority therefor,

(6) A summary of any evidence that the petitioner intends to present in the event the petition is granted, and

(7) The way in which the party shall be substantially and specifically affected by the proceeding.

(d) Prior to the commencement of oral testimony in any hearing in a contested case, any person may petition for permission from the presiding officer to participate in the hearing as an intervenor.

(e) The petition of the proposed intervenor shall:

(1) State such person's name and address,

(2) State the interest affected by the proceeding,

(3) Describe the manner and extent to which that person proposes to participate in the hearing,

(4) Describe the manner in which such participation shall furnish assistance to the Commissioner in resolving the issues of the case, and

(5) Summarize any evidence that person proposes to offer.

(f) The presiding officer shall determine whether and to what extent the proposed intervenor may participate in the hearing, taking into account whether such participation shall furnish assistance to the Commissioner or his designee in resolving the issues of the contested case.

(g) Unless provided otherwise by the presiding officer in writing, each person or their duly authorized representative authorized to participate in a contested case as a party or as an intervenor shall file a written notice of appearance with the presiding officer. Said appearance shall include a mailing address and telephone number, if applicable.

(h) If a party is homeless and no suitable address is available, notices and all other mailings shall be sent to the office of the Department's service officer in the congressional district in which the homeless person lives:

(1) Suitable alternative addresses include, but shall be not limited to, a relative, a friend, an emergency shelter, a soup kitchen, or other address to which the United States Postal Service makes deliveries, and which the homeless person identifies as a place that the party frequents,

(2) No more than two alternatives shall be used by the presiding officer.

(Effective January 19, 1996)

Sec. 27-102I(d)-60. Final agency decisions

(a) In the event the presiding officer has been designated by the Commissioner as the hearing officer, the presiding officer shall submit to the Commissioner the proposed findings of fact, conclusions of law, and a recommended decision and order. The Commissioner shall consider the recommendations of the presiding officer in accordance with Section 4-179 of the Connecticut General Statutes when rendering the agency's final decision and may if required by justice order the taking of additional evidence on the record or preside over such a proceeding on the record.

(b) The Commissioner may adopt, modify in whole or in part, or reject the proposed agency decision, findings of fact, conclusions of law, and the proposed order submitted by a presiding officer.

(c) In rendering a final agency decision, the presiding officer or Commissioner, when he reviews a decision, may take one of several courses of action in making the final agency decision which include, but shall be not limited to the following:

(1) Find in favor of the petitioner.

(2) Uphold the action or inaction of the agency,

(3) Order that the proposed agency decision be final,

(4) Accept a written withdrawal of the action signed by the parties,

(5) Accept a settlement of the issues agreed by the parties,

(6) Default any party who fails to appear and may not request a rescheduling of a hearing for good cause prior to the date of the hearing, or

(7) Take any other action authorized by law and appropriate.

(d) Proposed and final agency decisions shall be comprehensive written statements by the presiding officer or the Commissioner. Each shall contain the following:

(1) A list of the parties and their designations,

(2) A statement of the issue or issues involved in the hearing,

(3) Findings of fact on all relevant factual matters, including stipulated facts, which shall be supported by evidence in the record,

(4) Reference to all laws, regulations, and other legal bases for the decision,

(5) A concise statement of the conclusion drawn from the findings of fact and law, including the reasoning used in reaching the conclusion,

(6) Any action to be taken by the agency, if appropriate to address the issue or issues in the hearing, including an appropriate time frame and effective dates of the decision, and

(7) A specific notice on a right to further review under Section 4-183 of the Connecticut General Statutes if it is a contested case.

(e) All proposed and final memoranda of decisions on rulings and the final agency decision shall be mailed certified mail, return receipt requested, to the petitioner or the respondent, or his representative. A resident shall be served by personal delivery:

(1) For any party represented by an attorney, a copy shall be provided to the veteran and attorney,

(2) If a veteran is subject to a conservatorship, a copy shall be provided to the veteran and the conservator.

(f) In a contested case, the Department of Veterans' Affairs shall create a record of the agency proceeding in accordance with subsection (d) of Section 4-177 of the Connecticut General Statutes:

- (1) All notices and memoranda filed by the parties and the Department,
- (2) Any ruling by the presiding officer,
- (3) The memorandum of decision on the final agency decision,
- (4) All exhibits admitted or offered if marked for identification,
- (5) A transcript or electronic recording of the proceeding, and
- (6) All matters given administrative notice by the presiding officer or final decision-maker, such as laws and regulations.

(g) The presiding officer shall take all steps necessary to preserve the record described in subsection (f) of this section for a period of no longer than sixty (60) days after rendering the final agency decision, unless otherwise required by federal or state law.

(Effective January 19, 1996)

Secs. 27-102I(d)-61—27-102I(d)-69. Reserved

PART D

Index of Agency Decisions

Sec. 27-102I(d)-70. Index of written orders and final decisions

(a) Pursuant to Section 4-180a of the Connecticut General Statutes, the Department shall maintain an index of written orders and final decisions based on the name of the petitioner and persons against whom a complaint is heard in a hearing, or in which an order or final agency decision is made. Decisions following an informal conference shall be not subject to indexing.

(b) A subject matter index shall be based on the content of the initial notice of hearing, written memorandum of decision, or order issued.

(c) The index shall be maintained by an affirmative action administrator.

(d) The Affirmative Action Administrator shall, in the event information in an order or decision is not subject to disclosure because the same is confidential as provided by federal or state law:

- (1) Review the confidential information,
- (2) Edit, revise, or remove the confidential information,
- (3) Retain complete copies in a separate file and in confidence, except as to persons authorized to examine such copies, including but not limited to the veteran, his personal representative, his attorney, and departmental staff with a justified need to know, and
- (4) Make true copies available of the edited, revised or removed information for inspection and copying.

(e) No person shall remove or cause to be removed from said files of the petitioner and persons against whom a complaint is heard or decision indexed.

(Effective January 19, 1996)

Sec. 27-102I(d)-71. Requests to inspect and copy index information

(a) Requests to inspect or copy indexed information shall be made in writing to the Affirmative Action Administrator who shall make said index available for inspection during normal business hours of the Office of the Commissioner.

(b) Requests for copies shall be in writing and processed by the Department at cost as provided by Section 1-15 of the Connecticut General Statutes, as may be amended.

(Effective January 19, 1996)

PART E

Discrimination and Sexual Harassment

Sec. 27-102I(d)-72. Discrimination and sexual harassment prohibited

(a) The Department of Veteran's Affairs shall ensure that all persons shall be treated equally, with dignity, and without loss of civil rights as protected in federal and state law while employed with the Department (or under contract) or while participating or residing in its programs and activities or while visiting persons so engaged.

(b) The Department of Veterans' Affairs, its agents and contractors shall not discriminate against any employee, applicant, veteran, program participant, or visitor because of their race, age, color, religious creed, marital status, national origin, ancestry, mental retardation, physical disability, past or present mental disability or disorder, prior conviction or pending investigation of a crime, sex, sexual orientation, or all other variables as may be subject to federal or state authorities.

(c) The Affirmative Action Administrator shall serve as the Affirmative Action Officer for the Department and shall prepare and distribute such notices and directives as necessary to ensure that the provisions of the regulations of Connecticut state agencies shall be not violated.

(Effective January 19, 1996)

Sec. 27-102I(d)-73. Grievance procedure

(a) Notwithstanding other provisions of the regulations of Connecticut state agencies and any provisions of applicable federal and state law, the Affirmative Action Administrator shall be responsible for the grievance procedure and all complaints and shall:

(1) Cause appropriate postings to be erected as required by law to inform employees, independent contractors, veterans, program participants, and visitors as to the prohibited acts and how to report the same,

(2) Issue copies of procedures related to filing complaints of prohibited acts to all current employees and independent contractors which shall include the name of the Affirmative Action Administrator then employed and a telephone number for the Affirmative Action Program and issue the same to each new employee or contractor prior to commencing service,

(3) Receive and investigate all formal written complaints of discrimination or sexual harassment directly from the victim, veteran advocate, or any other responsible person,

(4) Receive and handle informal complaints, including encouraging the complainant to file a formal written complaint as may be appropriate,

(5) Maintain the confidentiality of the victim and complainant, unless authorized to release their identity or where justice requires,

(6) Resolve formal complaints within thirty (30) days of receiving the complaint, unless the complainant fails to cooperate or assist in the investigation, except that no case should remain unresolved longer than ninety (90) days,

(7) Advise any party that they may appeal from the Affirmative Action Administrator's decision to the Commissioner or his designee who shall render a final agency decision which shall include notice of appeals to the Commission on Human Rights and Opportunities, United States Equal Employment Opportunities Commission, United States Department of Labor, Wage and Hour Division, or any other federal or state agency that enforces laws concerning discrimination as may be appropriate,

(8) Take any action necessary to resolve formal and informal complaints if possible, including:

(A) Ordering a respondent to cease and desist as to the alleged prohibited acts to the extent that the allegations have been found to exist or to have existed by the Affirmative Action Administrator,

(B) Ordering counseling for the complainant and/or the respondent, if such activity could ameliorate the situation,

(C) Recommending to the Veterans' Home Director of the Residential Facility or the Health Care Facility Administrator that a veteran be discharged, if the alleged misconduct is a major offense as set forth in Section 27-102I(d)-200 of the Regulations of Connecticut State Agencies, and

(D) Taking any other action which may result in the elimination of the prohibited act or acts alleged.

(9) Provide periodic training and confidential counseling to any person about prohibited acts,

(10) Prepare and report the grievance findings to any state or federal agency that monitors the agency's activities in addressing and enforcing anti-discrimination laws, and

(11) Maintain and preserve records of complaints and investigations as required by law and make such records available to agencies which monitor the Department's compliance with applicable discrimination laws.

(b) The Affirmative Action Administrator may participate in and coordinate an investigation and resulting proceeding under the regulations of Connecticut state agencies with similar activities being undertaken by the Veterans' Home Director of the Residential Facility or the Health Care Facility Administrator under Section 27-102I(d)-202 of the Regulations of Connecticut State Agencies, at the discretion of the Affirmative Action Administrator

(c) Any person may file a complaint with the Affirmative Action Administrator.

(1) The complainant is required to make formal complaints which:

(A) Shall be written, dated and signed by the complainant or authorized representative,

(B) Shall name a respondent, i.e. the party who allegedly performed the prohibited act, which may be the Department, an employee, an independent contractor, a veteran, a program participant or visitor,

(C) Shall describe the alleged discriminatory act, including date, time and location of the prohibited act,

(D) Shall identify any witness, or provide other relevant information which shall assist the investigator, and

(E) Shall describe the action or actions of the victim prior to and immediately following the alleged discriminatory acts.

(2) The complaint shall be filed as soon as the victim is aware that the alleged conduct is prohibited. The Affirmative Action Administrator shall investigate informal written complaints before formal complaints and shall immediately investigate

discrimination that did or may result in physical injury or cause irreparable harm to the victim.

(3) The complainant shall cooperate in the investigation and should be present in any proceeding resulting from a formal or informal complaint. If a complainant refuses or fails to cooperate or assist in the proceeding, the Affirmative Action Administrator may terminate said proceeding.

(4) The filing of a complaint with the Affirmative Action Administrator shall not preclude the complainant from pursuing any other remedy or cause of action which may be available at law.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102l(d)-74. Retaliation

(a) It shall be a violation of the regulations of Connecticut state agencies to retaliate against any person who files a formal or informal complaint in good faith or participates in any resulting proceeding, regardless of whether said complaint is substantiated during the investigation of the Affirmative Action Administrator or resulting proceeding.

(b) Any person taking any retaliation against a complainant, a respondent, or any other person directly or indirectly involved in such an investigation or proceeding shall do so at their own risk of disciplinary action.

(c) A presumption shall exist that retaliation which is cognizable under the regulations of Connecticut state agencies is not within the scope of employment or within the scope of contract services.

(Effective January 19, 1996)

Secs. 27-102l(d)-75—27-102l(d)-79. Reserved

ARTICLE II

RESIDENTIAL PROGRAMS

PART A

Hospital

Sec. 27-102l(d)-80. Health care facility

(a) The Department of Veterans' Affairs shall operate a Health Care Facility at the Veterans' Home in Rocky Hill.

(1) The number of beds will be determined at the discretion of the Department in consideration of the available appropriations and the needs of the veteran population.

(2) The Department's goal is to provide care and services in a manner that is sufficient to meet state licensure requirements and federal certification requirements for participation in the Title VIII and Title XIX Medicare and Medicaid programs and VA per diem reimbursement.

(3) The Department may elect to be subject to the Joint Commission on Accreditation of Healthcare Organizations or any other accreditation organizations as may be deemed appropriate by the Commissioner.

(4) Each veteran admitted to the Health Care Facility shall have an assigned primary care provider who will be responsible for directing the care provided to the veteran.

(b) The Department may, in its discretion, offer specialized services for Health Care Facility residents presenting particular problems, such as specialized Alzheimer's or Specialized Substance Abuse Treatment.

(Effective January 19, 1996; amended October 11, 2007)

Secs. 27-102I(d)-81—27-102I(d)-89. Reserved

PART B

Home Life and Domicile

Sec. 27-102I(d)-90. Residential facility

(a) The Department shall operate a residential program at 287 West Street, Rocky Hill, Connecticut, for veterans, who aside from brief acute hospitalization periods necessitated by illness, shall be capable and desire to perform their own activities of daily living, including dressing, bathing and eating, and who can manage their own personal affairs, including leisure time, employment (if desired), and finances.

(b) Within appropriations, the Commissioner may designate the number of beds available and organize said beds into units as may be appropriate to ensure the health, safety, and welfare of veterans in residence.

(c) Within appropriations, the Commissioner may designate beds or units for a particular and specialized care need or program or may offer activities as demand may warrant, including:

(1) Substance Abuse Treatment Program (SATP) which is a treatment program housed in the Veterans Recovery Center (VRC) for veterans who have had a substance abuse problem, voluntarily agree to a plan of care and adhere to that plan, and meet all other criteria for admission to the Residential Facility.

(A) A SATP participant may concurrently be designated a participant in the Veterans Improvement Program, Veteran Worker Program, or other specialized programs, activities, or services offered by the Department,

(B) Failure to comply with conditions of the plan of care is basis for involuntary termination in SATP, but may not be the basis of an involuntary discharge from residence in the Residential Facility, unless expressly provided by the plan of care.

(2) Veterans Improvement Program (VIP) which is a rehabilitation program for Residential Facility veterans based on the desire of the veteran to remain in residence or to return to life in the community at large. The three categories shall be:

(A) Accelerated Veterans Improvement Program (AVIP) for veterans whose plan of care anticipates discharge from the Residential Facility within six (6) months,

(B) Standard Veterans Improvement Program (SVIP) for veterans whose plan of care anticipates discharge from the Residential Facility within two (2) years, but not sooner than six (6) months, and

(C) Extended Veterans Improvement Program (EVIP) for veterans whose plan of care anticipates discharge, if at all, beyond two (2) years.

(3) Education and Vocational Training Programs which may be provided in cooperation with local educational institutions or under contract to veterans who may be earning degrees, qualifying for occupational licenses, exams, or personal growth.

(4) Transitional Housing Program which shall be time limited housing options for veterans whose plan of care indicates that residence in the Residential Facility is no longer warranted or desired by the veteran. This program shall be a therapeutic

extension of the Residential Facility and each resident shall have an individual plan of care as defined in section 27-102I(d)-90 of the Regulations of Connecticut State Agencies. The program may include:

(A) Transitional Living Center (TLC) for veterans whose plan of care indicates a need for minimal support services from the Department. To participate a veteran shall have full time employment, and have completed the VIP or have demonstrated an ability to maintain personal hygiene and maintenance of personal living quarters.

(i) Each plan of care shall include an occupancy agreement with such terms as may be required, including cost per month or week, conditions of termination, and directions for payment of fees. The Commissioner may reassign any resident in the TLC to a bed in the Residential Facility in the event that the TLC resident fails to comply with any term or condition of occupancy, including loss of full time employment, lack of fiscal responsibility as set in the plan, consumption of alcohol or other substances in violation of federal or state law, or any other activity contraindicated in the plan of care,

(ii) An occupancy may not exceed six (6) months, except upon approval of the Commissioner for an additional six (6) months, if the resident can demonstrate said extension is required by factors beyond his or her control,

(iii) A Residential Facility or Veterans Recovery Center (VRC) veteran shall apply to the Veterans' Home Director of the Residential Facility to transfer to the TLC. Transfers shall be on a first come/first serve and space available basis. No veteran may be transferred without a revised plan of care,

(iv) The Department shall assist a residents' council to establish by-laws, including a provision for representation of the Department on it, and each occupant shall be a member of it. The council shall submit its by-laws and any amendment to the Commissioner for approval. The Commissioner may approve or disapprove the by-law or amendment. The Commissioner shall explain his rationale for any disapproval, and

(v) A TLC resident who fails to comply with the revised plan of care may be transferred back to the Residential Facility or VRC, except that the Department may discharge the resident, if the basis of said discharge is a major offense as defined in Section 27-102I(d)-200 of the Regulations of Connecticut State Agencies.

(B) Alternative Living Residence (ALR) which is a community residence established by a private owner, municipality, the Department or another state or federal agency for veterans who may be without proper housing and desire minimal contact with the Department, but who may benefit from therapeutic programs, activities or services offered by the Department under the terms of a resident's agreement.

(i) Each resident shall be subject to subparagraph (A) of this subdivision, except that all references to the TLC shall be to the Alternative Living Residence (ALR) and any failure to comply with the plan of care may result in discharge, even if not a major offense,

(ii) Any ALR shall comply with all local zoning and building code regulations,

(iii) Any veteran eligible for service from OAA may apply to become a resident in an ALR. No right of admission to the Home attaches to an ALR veteran not otherwise eligible for admission to that facility,

(iv) The Commissioner may enter into agreements with owners of housing units to provide an ALR and underwrite payment of rental fees due from occupants, if the veteran is otherwise eligible for admission to the Home subject to the terms and conditions of a written plan of care, and

(v) For any ALR owned and operated by the Department, a one year durational limitation shall be placed on an ALR occupant and such limitation may be extended for an additional year, subject to the continued compliance with applicable rules.

(5) Veteran Worker Program provides an opportunity for veterans to earn a wage and provides meaningful vocational and therapeutic work activities.

(A) Compensation is paid:

(i) A minimum wage,

(ii) Only for time worked, except where the immediate supervisor sends the veteran for a medical appointment related to or required by work activity, including assessment and reassessment of fitness for work, and

(iii) No benefits, sick time, vacation time or personal leave is accrued.

(B) A veteran worker shall be:

(i) Physically able to work assigned hours and perform assigned tasks, and

(ii) Medically cleared by his primary physician for one of five types of assignments as stated in the regulations of Connecticut state agencies.

(C) Assignments shall be evaluated and classified as follows:

(i) Class A which may be full-time jobs and may require a worker with no physical or environmental restrictions and include duties such as pulling, lifting, digging, crouching, or climbing,

(ii) Class B which may be full-time jobs and may require a worker with no difficulty standing, walking, climbing, or light lifting (under 30 lbs.), and may include duties such as pushing, sweeping, or operating electrical equipment (e.g. floor buffers),

(iii) Class C which may be full-time jobs and may require a worker with no difficulty standing, walking, sitting, and minimal lifting (under 20 lbs.), and include duties such as answering phones, filing, typing, or data entry,

(iv) Class D-1 which may be full-time jobs and may require a worker with no difficulty standing and sitting most of the day and include lifting (under 10 lbs.), but otherwise shall not require a worker to perform any physical tasks, or

(v) Class D-2 has the same standards found in D-1, except that worker is not capable of sustaining a full day schedule or demands of attention for longer than 1-2 hours at a time.

(D) A veteran not placed in any class under paragraph (C) of this subsection shall be Class E which is for veterans who may not be physically or mentally capable of any work.

(E) Within appropriations, the Commissioner or his designee, shall assign each veteran to a position based on the physical classification and interests and background of the veteran, if possible.

(F) If the number of veteran workers available exceeds the number of jobs available, the Commissioner shall establish a waiting list based on the veterans date of admission or transfer to the Home and the veteran next on the list shall be assigned a job within the classification for which the veteran is capable of performing, even if the assignment is in a lower class. While working in a lower class, the veteran worker shall retain his position on the waiting list for a higher classification.

(G) The Commissioner, or his designee, may authorize the supervisor of a veteran worker to adjust the veteran's work hours to avoid any loss of earnings in the event that a medically necessary appointment or employment interview conflict with the scheduled work hours. The authorization shall be approved prior to the excused absence and the hours worked may be completed during the same pay period.

(H) A veteran who fails to comply with his plan of care may be temporarily suspended or terminated from the veteran worker program.

(d) A Residential Facility or TLC veteran may apply to the Commissioner, or his designee, to be placed in or participate in any service, activity, or program offered by the Department.

(1) The Commissioner shall refer the application to an evaluation team comprised of a social worker, Veterans' Home Director of the Residential Facility, substance abuse counselor, and psychologist for a recommendation on any such application.

(2) The team may:

(A) Order a battery of tests of aptitude and personality interests,

(B) Review prior work history and military records,

(C) Analyze substance abuse history, if any,

(D) Receive input from the applicant and any other party personally familiar with the applicant, and

(E) Recommend placement in any service, activity, or program offered by the Department, or recommend alternative services, activities, or programs that the Department may be capable of arranging for the veteran, including referral to other local, state or federal programs.

(Effective January 19, 1996; amended October 11, 2007)

Secs. 27-102I(d)-91—27-102I(d)-99. Reserved

ARTICLE III

ADMISSION, TRANSFER AND DISCHARGE

PART A

Definitions

Sec. 27-102I(d)-100. Definitions

The following definitions apply to sections 27-102I(d)-101 to 27-102I(d)-138 inclusive of the Regulations of Connecticut State Agencies, unless otherwise expressly stated.

(1) "Application" means forms from Department of Veterans' Affairs which may include demographic information, medical history, physical examination, military discharge (verification), release of information to/from other facilities, financial information, consents, and contracts. A substantially completed form is one that provides sufficient information to determine eligibility for admission to the Home and admission to a service, activity, or program.

(2) "Armed forces" means the United States Army, Navy, Marine Corps, Coast Guard, and Air Force as set forth in Section 27-103 of the Connecticut General Statutes as may be amended from time to time.

(3) "Eligibility information" means an explanation of policies and procedures of the Department of Veterans' Affairs which the agency provides to an applicant with application forms and which lists inclusive dates of qualifying service and other information about eligibility.

(4) "Honorable service" and "under honorable conditions" is character of service as listed on DD-214 (the U.S. Defense Department Enlisted Record and Report of Separation) or separation papers (generic term). This term may include "general-other than honorable" and "bad conduct" discharges.

(5) "Residence" means that the veteran is a legal resident of the State of Connecticut.

(6) "Review Panel" means a group which may be composed of a nurse, a physician, a social worker, a substance abuse counselor, the Veterans' Home Director of the Residential Facility (Home applicants only) or designees which makes recommendations to the Health Care Facility Administrator based on a review of the veteran's mental and physical condition and program capability.

(7) "Technical approval" means upon review that the Department determined the veteran's proof shows that the veteran:

- (A) Is within the definition of a veteran,
- (B) Possesses a service honorable or under honorable conditions discharge,
- (C) Meets the residency requirement, and
- (D) Meets war-time service requirements, if applicable.

The term "Technical approval" does not include admission to a specific program and does not constitute an admission decision.

(8) "Technical denial" means upon review the veteran has failed to show proof of meeting the criteria stated in the definition of technical approval.

(9) "Desk review" means a review by the Health Care Facility Administrator or Commissioner or designee of written information, including application forms and other materials as submitted by applicant or a personal representative, to determine compliance with departmental regulations and policies by the agency in rendering a decision or proposing an agency action.

(10) "Administrative approval" means a determination to admit the veteran made by the Health Care Facility Administrator based upon the application and recommendation of the review panel following a desk review.

(11) "Administrative denial" means a determination by the Health Care Facility Administrator following a desk review that the applicant may not meet one or more criteria for admission to a service, activity, or program.

(12) "Planned discharge" means that the veteran has been medically cleared for discharge and has received maximum benefit from Home as applicable.

(13) "Maximum benefit" means the veterans care plan has been achieved or no further progress is anticipated from continued participation or receipt of services from the Department.

(14) "Against Medical Advice Discharge" (AMA) means a discharge that the veteran has requested from the Home for whatever reason and about which a primary care provider made a finding that the veteran would be at risk by leaving the Home and the primary care provider advises against.

(15) "Involuntary Discharge" (ID) means termination of a veteran's admitted status or program participant status taken by the agency when a veteran commits a major offense or repeated minor offenses of the rules and regulations or fails to comply with the terms and conditions of a plan of care that specifies an involuntary discharge is a consequence of such failure. Major and Minor Offenses are defined in Section 27-102I(d)-200 and 27-102I(d)-201 of the Regulations of Connecticut State Agencies.

(16) "Absent Without Leave" (AWOL) means the whereabouts of the veteran is unknown to the agency or that the veteran is not on the grounds of the Home or Transitional Living Center without notifying the agency of his intention to leave or without the consent of the agency.

(17) "War-time Service" means service in time of war as defined in section 27-103 of the Connecticut General Statutes, as may be amended from time to time.

(Effective January 19, 1996; amended October 11, 2007)

PART B**Admission****Sec. 27-102I(d)-101. Order of admission**

(a) Admission shall be on a first-come, first-serve basis, subject to applicable licensure limitations and capacity to provide particular or specialized care, if applicable, except that intra-facility transfers of a veteran or resident may be effectuated without regard to the list.

(1) If admission is denied because a bed designated for particular or specialized care is not available, any applicant or veteran passed over for admission shall be offered, in order, the next available bed designated for that care.

(2) If an applicant declines to accept an offer of admission, the Department shall offer the bed to the next waiting list applicant who has a substantially completed application or transfer request on file and who is otherwise eligible as provided in this section. If an applicant declines an offer for admission, the applicant's name shall be placed at the bottom of the list.

(b) Where applicable, the waiting list required by Title XIX of the Social Security Act shall prevail over the regulations of Connecticut state agencies.

(c) An admission decision shall not consider ability to pay.

(d) An application which may not disclose sources of income, resources, and assets shall not be considered substantially completed.

(Effective January 19, 1996)

Sec. 27-102I(d)-102. Admission requirements and general eligibility

(a) Each veteran shall meet the following admission requirements:

(1) Submit a substantially completed application (DD214),

(2) Be technically eligible,

(3) Be recommended for admission by a review panel,

(4) Receive administrative approval,

(5) Agree to a voluntary admission,

(6) Agree to participate in appropriate placement and program planning,

(7) Authorize the release of information from other health care providers and institutions to the Department,

(8) Upon actual admission, present care needs shall be similar to those reflected in the application and for which the Department has one or more appropriate programs to serve the veteran's needs at time of admission,

(9) Agree to participate in a plan of care which contains mutually agreeable treatment, social or independent programs components, and agree to periodic evaluations and adjustments as required by changes in the veteran's condition,

(10) Agree to comply with rules and regulations of the Department, including full disclosure of financial information necessary to determine the veteran's ability to pay, and

(11) Satisfy waiting list requirements, if applicable.

(b) The Department shall not admit or detain a veteran against his will or a veteran for whom the Department may not have an appropriate service, activity, or program.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-103. Admission application process

(a) The Department shall provide a copy of the application to any person who requests said forms. The Department shall maintain a daily inquiry log in a bound

volume with numbers assigned to each request and the name of the veteran for the purpose of establishing a waiting list.

(b) The burden is on the applicant to substantially complete the application and pay any associated costs, including but not limited to, medical and psychological history, demographic information, military discharge (verification), declaration of residency, release of information to/from other facilities, financial information, consents, and contracts.

(c) Assistance with applications may be obtained from OAA district service officers.

(d) Any veteran may submit a written request to the Admissions Director for a tour of the Home which shall be given within 2 working days.

(e) Application forms and supporting documentation shall be forwarded to the Admissions Office, Connecticut Department of Veterans' Affairs, Veterans' Home, 287 West Street, Rocky Hill, Connecticut 06067.

(f) An application shall be dated and considered for programs and/or services only when substantially completed.

(g) If an applicant fails to substantially complete an application form with written proofs as required, and to do so within sixty (60) days, the entire application shall be returned to the applicant.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-104. Technical review procedure

(a) Admitting office staff shall review applications substantially completed for technical eligibility.

(b) Proof of military service may include:

(1) Original or photostatic copy of DD-214. Copy shall be subject to verification with the regional office,

(2) Prior records submitted to and retained by the agency,

(3) U.S. Department of Veterans' Affairs record that the veteran is receiving veterans benefits,

(4) Inclusion of a roster of veterans maintained by the Department as required by state law, and/or

(5) Verification from St. Louis Federal Record Center or a record center of a particular branch of the military.

(c) Each application shall provide a declaration of residency on a form provided by the Commissioner.

(d) Failure to substantially complete an application, to submit proof of technical eligibility or failure to meet the standards for technical approval shall result in a recommendation by the admitting staff to the Health Care Facility Administrator that the proposed agency action be a technical denial and shall be submitted to the Health Care Facility Administrator for a desk review.

(e) When the applicant has been determined to meet the technical requirements, the application shall be considered technically approved and forwarded to the Review Panel.

(f) Each application with submitted proof that has received a recommendation for technical denial shall be forwarded to the Health Care Facility Administrator for a desk review.

(g) The Health Care Facility Administrator shall:

(1) Sustain the technical denial as the proposed agency action, or

(2) Direct that no determination can be made based on the information available, specify the additional information needed, and return the application to the admitting office with directions as to further processing, or

(3) Determine that technical eligibility has been established by the applicant and return the application to the admitting office for further processing.

(h) In the event the proposed agency action is a technical denial, a written notice shall be provided to the applicant which shall advise the applicant as to the following:

(1) The proposed agency action,

(2) The reasons for the proposed agency action,

(3) The right to request, within 10 days of date of mailing, an informal conference with the Health Care Facility Administrator or designee, and

(4) Availability of assistance from the OAA for the purpose of perfecting the application and to correct the deficiency or seek alternate services.

(i) If requested by the applicant, an informal conference may be held within 10 days of the written notice.

(j) When the Health Care Facility Administrator determines proof is sufficient, the application shall be returned to the Admitting Department for submission to the Review Panel.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-105. Review panel process

(a) Technically approved applications shall be forwarded to a review panel either individually or collectively for their recommendations.

(b) The Review Panel shall review the physical examination performed by a health care professional and other forms submitted to determine the capability of the Department to meet the individual health care and programmatic needs of the veteran.

(c) The Department may require a repeat physical examination when information is incomplete and a determination of physical condition and program capability cannot be made based on medical information available to the Review Panel or when a member of the panel determines that a significant change of a medical condition has occurred.

(d) Any member of the panel may contact any health care practitioner or health care facility for additional information deemed necessary to process the application.

(e) Members of the panel shall determine whether the Department can meet the care needs of the applicant and recommend either admission or denial to the Health Care Facility Administrator based on the physical condition of the veteran and capability of the service, activity, or program to meet the veteran's needs.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-106. Proposed agency action by health care facility administrator

(a) Upon receipt of the Review Panel's recommendations, the Health Care Facility Administrator shall propose agency action for approval or denial of the application based on the review of the physical examination, recommendations of the Review Panel and program capability following a desk review.

(b) A proposed denial of an application shall be put in writing to the veteran or legally responsible party.

(c) A proposed approval of the application to the domicile may be made by telephone with a follow-up in writing.

(d) A proposed approval to the Health Care Facility which would result in waiting list status shall be put in writing and a notation included on the waiting list as to the approved status.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-107. Readmission restrictions

(a) Prior approval by the Commissioner is required for any readmission of a veteran whose prior discharge was within six (6) months and is characterized as one or more of the following:

(1) Failure to comply with conduct specified in the regulations of Connecticut state agencies, including repeated minor offenses,

(2) Involuntary discharge,

(3) Absent without leave,

(4) Against medical advice, and

(5) Billing account not in good standing, or

(6) Repeated failure to comply with the terms and conditions of a plan of care.

(b) The Commissioner shall consider the following factors in any readmission decision:

(1) The mission of the agency,

(2) The health, safety and welfare of other patients, staff and visitors,

(3) The health, safety and welfare of the applicant and known risks of denial of readmission,

(4) History and past conduct of the applicant, including conduct while in residence at the Home and conduct since the last discharge,

(5) The availability of other services, activities or programs to serve the veteran's needs, including the U.S. Department of Veterans' Affairs, and

(6) Capability of the Department to meet the needs of the applicant and patient population as a whole.

(c) The Commissioner may require that the applicant participate in a program directed urine testing schedule for at least twenty-six weeks after admission as part of the individual plan of care, if recommended by the Admission Review Panel under subsection (e) of Section 27-102I(d)-105 of the Regulations of Connecticut State Agencies, if the previous discharge was involuntary as a result of testing positive on a urine test or if discharged as a result of possession of illegal substances.

(1) The Commissioner may require a urine test at the time of admission and deny admission if the test result is positive as defined in Section 27-102I(d)-186 of the Regulations of Connecticut State Agencies.

(2) If a veteran refuses to participate in program directed testing, the Commissioner may deny readmission.

(d) A presumption shall be held in favor of readmission, except where it is known to staff involved in the admission decision making process that the health, safety, or welfare of other veterans, staff, or visitors shall be or may be at risk due to applicant's past history. No presumption shall exist upon a second application for readmission in a twelve month period, if the prior application was denied for other than technical reasons:

(1) Personal history of causing physical injury to others, history of a violent crime within the past ten years or at the discretion of the Commissioner, or

(2) Demonstrated inability to respect the personal property of others or the state, or

(3) Personal history of introducing illegal substances, firearms or other inherently dangerous property into the Home, Transitional Living Center, and/or other state or private residential or health care institutions.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-108. Programmatic admission criteria

(a) In addition to the technical eligibility requirements, an applicant for admission to the Home, but not the Health Care Facility, shall be physically and mentally able to:

(1) Manage activities of daily living (ADL) defined as ambulation, dressing, eating, and personal hygiene,

(2) Self-manage medical conditions, and

(3) Be able to care for assigned living area.

(b) Prior to admission or transfer to the Substance Abuse Treatment Program, the applicant shall:

(1) Meet all the requirements for admission to the Home as specified in subsection (a) of this section,

(2) Acknowledge a history or an episode of substance abuse,

(3) Agree to participate in one or more programs designed to assist the veteran toward transition back into the community, including the signing of a plan of care, and a behavioral contract as may be appropriate,

(4) Agree to a directed or random urine testing schedule as clinically indicated as set forth in subsection (a) of Section 27-102I(d)-186 of the Regulations of Connecticut State Agencies, and

(5) Agree to be free of alcohol and free of any drug, other than what may be purchased over the counter, or prescribed by a physician.

(c) Prior to admission or transfer to the following particular and specialized beds, the applicant shall meet these additional criteria:

(1) For the Alzheimer's Unit, an applicant shall:

(A) Have a primary or secondary diagnosis of organic dementia,

(B) Be in mild to moderate stage of organic dementia, and

(C) Be determined by a unit assessment team to be a veteran who may benefit from receiving this specialized care.

(2) Veterans in need of detoxification shall:

(A) Be determined to be medically stable, and

(B) Be determined to be in need of sub-acute detoxification.

(3) An applicant for respite care shall:

(A) Have a disability which requires that the applicant rely on a primary care giver to complete activities of daily living, to manage medication, and to ensure nutrition,

(B) Desire or require a temporary, short-term relief, or a substitute for the primary care giver for a period of not more than 28 days in any one-year period,

(C) Present a diagnosis(s) which the agency has capabilities to meet,

(D) Submit a medical exam report done by a private physician who personally has examined the applicant five (5) days prior to planned admission,

(E) Agree to a visit from an assessment team of a nurse and a social worker prior to admission to the facility, if requested by the assessment team,

(F) Provide the name, address, and telephone number of designated contact person for emergencies,

(G) Provide authorization from a personal representative for the applicant to go on trips, outings, recreation and/or educational programs selected and supervised by the Department staff,

(H) Agree to pay a fee based on one's ability to pay as determined by the agency and stated in writing to the applicant or personal representative prior to admission,

(I) Have a primary care giver who agrees to:

(i) Limit the respite care period to a minimum of five (5) days and a maximum stay of twenty-eight (28) days, in a twelve (12) month period, and

(ii) Deliver or cause the arrival of the applicant at the Health Care Facility admitting office by 10:00 a.m. on the first day and pick-up or arrange departure by 12:30 p.m. on the day of discharge, and

(J) Present a placement plan or strategy to be followed, other than admission to a departmental service, activity, or program, if the primary care giver is unable or unwilling to resume the primary care giver role for the applicant at the time of discharge.

(4) For hospice care, an applicant shall have:

(A) A medical condition that is terminal,

(B) A selected nonaggressive course of medical management with an emphasis on comfort, including pain management, and dignity, and

(C) A desire for assistance with the emotional, psychological and spiritual dynamics associated with the end of life.

(Effective January 19, 1996; amended October 11, 2007)

Secs. 27-102I(d)-109—27-102I(d)-119. Reserved

PART C

Transfers

Sec. 27-102I(d)-120. Internal transfers

(a) The Department reserves the right to reassess the level of care and appropriateness of placement in a service, activity, or program at any time for any reason and in its clinical judgment propose adjustment in the plan of care and assignment to various services, activities, and programs.

(b) Transfers may be preceded by a review and modification of the veteran's current plan of care. Except where an emergency precludes, the review process shall include:

(1) The veteran,

(2) Next of kin,

(3) Private health care providers, if used by the veteran, and

(4) Department staff who have personal knowledge of the circumstances and condition of the veteran.

(c) Factors to be considered in the review include:

(1) Current medical and mental health status of the veteran,

(2) Existing and proposed plans of care,

(3) Long range treatment goal(s),

(4) Recommendation of staff from the current placement, and

(5) Recommendation of staff from service, activity, or program which would receive the transfer.

(d) In addition to the factors in subsection (c), the following programmatic factors may be considered:

(1) For Alzheimer's veterans, a review shall consider if:

(A) The dementia has progressed beyond the moderate stage of organic dementia,

(B) The program is no longer benefiting the veteran, and/or

(C) The capabilities of a regular Health Care Facility bed should be used without compromising the care rendered.

(2) For a detoxification veteran, a review shall consider if:

(A) Sub-acute detoxification is no longer clinically indicated, and

(B) The veteran can return to the placement which existed prior to admission to the specialized bed.

(3) A respite care veteran may not be transferred to other departmental services, activities or programs, unless the veteran otherwise qualifies for admission, including applicable waiting lists.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-121. External transfers

(a) The Department may transfer a veteran at his request to any facility designated by the veteran.

(b) External transfers shall be handled in the same manner as an internal transfer, except that a representative of the receiving entity may participate upon the consent of the veteran.

(1) A veteran admitted to the Home who is subsequently transferred to any general Hospital, including any of the veterans' administration medical centers, and remains there for a period exceeding 96 hours, shall be deemed discharged from the Veterans Home.

(2) Readmission shall be automatic upon notification from either the general Hospital or a VA Medical Center if said veteran is ready for return and the Department has the program capability to meet the needs of the veteran.

(3) Such a readmission may not require reapplication.

(c) Any transfer against medical advice shall not be blocked or hindered by the Department and shall be handled without distinction, except to document in the Department's record the objection to the transfer and the reason therefor.

(d) The Department shall assist any veteran or personal representative to effectuate a transfer, including identifying potential providers that may be able to serve the needs of the veteran, if requested.

(Effective January 19, 1996; amended October 11, 2007)

Secs. 27-102I(d)-122—27-102I(d)-129. Reserved

PART D

Discharges

Sec. 27-102I(d)-130. Voluntary discharges

(a) Any veteran may request to be discharged from any service, activity, or program of the Department of Veterans Affairs into which he or she has been placed by the Department:

(1) If the veteran's medical condition allows, such a request shall be honored and the veteran shall be discharged.

(2) A voluntary discharged veteran may reapply without restriction, except as to waiting list laws as defined in the Regulations of Connecticut State Agencies and Title XIX of Social Security Regulations. The Health Care Facility Administrator shall waive any or all application requirements, except:

(A) The agreement to abide by all rules and regulations, and

(B) To the development of a plan of care, including plans for discharge, if appropriate.

(b) A veteran's request for a voluntary discharge shall be considered involuntary if one or more of the conditions in this subsection exist:

(1) The veteran is subject to an investigation of a major rule offense as defined in section 27-102I(d)-200 of the Regulations of Connecticut State Agencies, unless and until such matters shall be dismissed or;

(2) The veteran's account is not in good standing, unless and until the veteran makes payment to bring the account into good standing.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-131. Against medical advice (AMA)

(a) If a veteran or legal representative insists on leaving the Health Care Facility for whatever reason, and is advised by a primary care provider that there is a medical condition so unstable that the veteran may be at risk by leaving the Health Care Facility, the following steps shall be taken:

(1) The veteran or legal representative shall be asked to sign a statement acknowledging that he has been advised by a primary care provider of the dangers of leaving due to known medical problems.

(2) The Department shall inform the veteran and legal representative, if involved, that the veteran shall be financially responsible and shall make all arrangements for the leave at no cost to the State, although if the veteran is incapable of making such arrangements the Department may assist.

(3) The veteran or legal representative shall make the request for discharge in written form.

(b) A patient who has been discharged against medical advice may reapply at any time, subject to the restrictions in Section 27-102I(d)-107 of the Regulations of Connecticut State Agencies.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-132. Involuntary discharges

(a) Veterans who have been involuntarily discharged may seek readmission after one hundred eighty (180) days of the discharge pursuant to Section 27-102I(d)-107 of the Regulations of Connecticut State Agencies.

(b) The Veterans' Home Director of the Residential Facility may order an involuntary discharge for a participant in a residential program, except a Health Care Facility veteran who may be discharged by the Health Care Facility Administrator.

(c) An immediate involuntary discharge may be ordered following a desk review or informal conference and upon a finding by the Director of the Residential Facility or Health Care Facility Administrator as defined in Section 27-102I(d)-200 of the Regulations of Connecticut State Agencies, for:

(1) Any major offense involving injury or risk of injury to any person,

(2) Possession or introduction of unlawful substances on the grounds of the Department,

(3) Possession of firearms or dangerous weapons on the grounds of the Department, or

(4) Smoking in bed or smoking while using oxygen.

(d) A delayed involuntary discharge may be ordered following a desk review or informal conference and upon a finding by the Director of the Residential Facility or Health Care Facility Administrator as defined in Section 27-102I(d)-201 of the Regulations of Connecticut State Agencies, for:

(1) Any minor offense that involves injury or risk of injury to any person,

(2) The inability to comply with the rules of conduct set forth in Section 27-102I(d)-213 of the regulations of Connecticut state agencies,

(3) Failure to comply with treatment plans or behavioral contracts (if specifically required for program participation or in satisfaction and accord of earlier offenses),

(4) Failure to inform the Department as to his or her whereabouts for a period in excess of ninety-six (96) hours, or

(5) Failure to maintain an account in good standing.

(e) Failure to leave at the end of a planned respite period shall be a basis for involuntary discharge. The Commissioner shall refer to the Department of Social Services, Community Ombudsman for protection of the elderly, or other protective services.

(1) If a respite care veteran fails to leave the Health Care Facility at the end of a planned respite period, the veteran or the personal representative shall be liable for the cost of care based on the original date of admission of the respite care period,

(2) A respite care veteran who fails to leave at the end of a planned respite period may be transferred or placed in another health care or nursing facility at the discretion of the Commissioner,

(3) The date of inquiry shall be established by a written request and the date used for waiting list purposes is the date such a request is received:

(A) Admission to a respite care bed shall not entitle a veteran to a priority or transferee status for the purpose of permanent admission,

(B) A respite care veteran's request for permanent admission may not relate back to the original date of inquiry about respite, and the respite care veteran's inquiry shall be entered on the inquiry log in the same manner as other applicants,

(C) Information from a respite care application may be used as the basis for a permanent admission and the need for additional information shall be handled in the same manner as other applicants.

(f) A veteran who has been involuntarily discharged may reapply at any time, subject to the restrictions in Section 27-102I(d)-107 of the Regulations of Connecticut State Agencies.

(Effective January 19, 1996; amended October 11, 2007)

Secs. 27-102I(d)-133—27-102I(d)-138. Reserved

PART E

Desk Review and Informal Conference

Sec. 27-102I(d)-139. Desk review and informal conferences

(a) An applicant, transferee, or veteran who disagrees with an agency decision may petition for an informal conference with the Health Care Facility Administrator after which, if granted, the Health Care Facility Administrator may modify, reverse, or affirm the decision rendered.

(b) If after an informal conference or if the petition for such a conference is denied, an applicant, transferee, or veteran who continues to disagree, may petition the Commissioner for a desk review by the Commissioner.

(c) The Commissioner may deny or grant a desk review and may thereafter, if granted, modify, reverse or affirm the decision rendered.

(Effective January 19, 1996; amended October 11, 2007)

ARTICLE IV
VETERANS RIGHTS AND GENERAL CONDUCT
PART A

Veterans Rights and Responsibilities

Sec. 27-102I(d)-140. Veteran rights

(a) The basic rights of human beings for independence of expression, decision making, and action, and concern for personal dignity and human relationships shall not be compromised for veterans admitted to the Home, except where necessary to ensure the health, safety, and welfare of other patients, staff, and visitors.

(b) In providing care, the Department has the right to expect behavior on the part of veterans, their relatives and friends, which, considering the nature of the request for admission and their illness, if any, is reasonable and responsible.

(c) The Department affirms the veteran's right to make decisions regarding the extent of his medical care treatment and daily living activities, including the decision to discontinue, withdraw, or reject treatment to the extent of the law.

(d) Each veteran entering a service, activity, or program shall receive and sign for a copy of the Veteran Handbook, which shall include but may not be limited to the following:

(1) The veteran shall be accorded impartial access to treatment or accommodations that shall be available or medically indicated, regardless of race, creed, sex, national origin, or religion, as outlined under eligibility requirements for admission.

(2) The veteran has the right to considerate, respectful care at all times and under all circumstances with recognition of his personal dignity.

(3) The veteran has the right to personal informational privacy as outlined in the Veteran Handbook.

(4) The veteran has the right to expect reasonable safety from physical harm.

(5) The veteran has the right to know the identity and professional status of individuals providing service to him/her and to know which physician or other practitioner is primarily responsible for his care.

(6) The veteran has the right to obtain from the practitioner responsible for coordinating his care, complete and current information concerning his diagnosis, treatment, and any known prognosis. This information shall be communicated to the veteran or legal representative (when appropriate) in terms in which the veteran can reasonably be expected to understand.

(7) The veteran has the right to expect confidentiality regarding his diagnosis and medical care except to the extent authorized by law.

(8) The veteran has the right to access people outside the Health Care Facility by means of visitors, and by verbal and written communication.

(9) The veteran has the right to be reasonably informed and participate in decisions involving his health care. The veteran should not be subjected to any procedure without his voluntary, competent, and informed consent, or that of his legally authorized representative.

(10) The veteran has the right to consult a specialist at his own expense.

(11) The veteran may refuse treatment to the extent permitted by law.

(e) In the event of a complaint by a veteran, family, or legal representative, the complaint shall be in writing to the Director of the Residential Facility or Health Care Facility Administrator for a written response.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-141. Veteran responsibilities

(a) Veteran is responsible for providing, to the best of his knowledge, accurate and complete information about matters relating to his health.

(b) The veteran is responsible for following the treatment plan of care developed jointly with and recommended by his care givers.

(c) The veteran is responsible for his actions, if he/she refuses treatment or may not follow the care givers instructions.

(d) The veteran or legal representative is responsible for completing and notifying the facility of any advanced directives (e.g. living wills, Declaration of Intent) that outline the extent of care desired if he is determined to be terminal, permanently unconscious, or in a vegetative state. Provision of care is not conditional on the existence of an advanced directive.

(e) The veteran is responsible for assuming the financial obligations of his health care as outlined under billing.

(f) The veteran is responsible for being considerate of the rights of other patients, visitors and Health Care Facility personnel.

(g) The veteran is responsible for being respectful of the property of other persons and of the state.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-142. Development of individual plan of care

(a) The Department and applicant share an obligation to jointly develop and agree to an individualized plan of care which shall guide the Department and the veteran in selecting appropriate services, activities, and programs for the veteran.

(b) Medical, surgical, psychosocial diagnoses from referring health care facilities and/or providers in conjunction with our own physical, mental, psychosocial assessments shall form the basis of the initial plan of care, as applicable.

(c) An initial plan of care shall be completed before admission, if possible, but no later than thirty days (30) after admission.

(d) No longer than six (6) months thereafter, or sooner, if changes in conditions or the plan so requires, the initial plan of care shall be reviewed.

(1) A plan may require review sooner than six (6) months.

(2) A veteran may request a review at any time.

(e) Plans shall be in writing and shall be signed by the veteran or personal representative.

(Effective January 19, 1996)

Secs. 27-102I(d)-143—27-102I(d)-149. Reserved**PART B****General Conduct****Sec. 27-102I(d)-150. Notice of general conduct**

(a) Every veteran admitted to a residential program shall be given notice of the general and specific conduct required while in residence. This obligation shall be met by providing the applicant with a copy of the Veteran Handbook.

(b) Admission and continuing participation in all Department of Veterans' Affairs treatment and residential programs is contingent upon the voluntary consent of the veteran.

(c) When a veteran shall not comply with the conduct required as defined in Section 27-102I(d)-151 through Section 27-102I(d)-185 of the regulations of Con-

necticut state agencies, disciplinary action may be taken as defined Section 27-102I(d)-200 and Section 27-102I(d)-201 of the regulations of Connecticut state agencies.

(Effective January 19, 1996)

Sec. 27-102I(d)-151. Emergency orders

(a) When the Commissioner certifies that an emergency exists, he may issue additional rules and orders, including restriction of visiting hours and expansion of off-limits areas, if necessary, to ensure order and to preserve the health and comfort of veterans, staff, and visitors.

(b) Any rules issued under subsection (a) of this section shall be effective upon posting and for a period of sixty (60) days, or less, if the emergency ceases sooner.

(Effective January 19, 1996)

Secs. 27-102I(d)-152—27-102I(d)-159. Reserved

PART C

Veteran Handbook

Sec. 27-102I(d)-160. Veteran Handbook

(a) The Department shall maintain a Veteran Handbook which shall, within appropriations, be revised from time to time at the Commissioner's discretion.

(b) Prior to admission, an applicant may request to inspect a copy of the Veteran Handbook which shall be maintained in the OAA Offices and at other locations as the Commissioner may find necessary to assure access to applicants.

(c) The Commissioner, or designee, shall provide to each veteran upon admission a copy of the Veteran Handbook and, where appropriate, Health Care Facility veteran rights information.

(d) The Commissioner shall make copies available for inspection in such locations at the Home as he determines to ensure access for all veterans and staff, including the Veteran Library and the Office of the Director of the Residential Facility.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-161. Content of the Veteran Handbook

(a) Each Veteran Handbook shall include:

(1) Rules of conduct necessary to ensure order and veteran safety,

(2) Conduct expressly regulated or prohibited as detailed in the Regulations of Connecticut State Agencies,

(3) Notice of:

(A) Inspection of motor vehicles, packages and containers,

(B) Inspection of lockers, and

(C) Urine substance abuse testing.

(4) Disciplinary procedures to be used as detailed in this section, and

(5) Right to a desk review, informal conference, or a formal hearing as set forth in the Regulations of Connecticut State Agencies.

(b) If the Commissioner prepares a summary of the Veteran Handbook for use in the admission process, the summary shall include such rules and regulations, including billing procedures, as the Commissioner determines are necessary to inform the admitted veteran of his rights and responsibilities while in residence at the Home.

(c) Additional copies of the Veteran Handbook shall be given to the veteran or personal representatives upon request and no fee shall be charged. If the veteran or representative has requested more than two (2) copies of the most recent edition, a fee may be charged.

(d) All veterans shall familiarize themselves and ensure that their conduct is in compliance with the rules and regulations of the facility and as outlined in the Veteran Handbook.

(Effective January 19, 1996; amended October 11, 2007)

Secs. 27-102I(d)-162—27-102I(d)-169. Reserved

ARTICLE V

REGULATED ACTIVITIES AND VIOLATIONS

PART A

Specific Activities and Conduct

Sec. 27-102I(d)-170. Activities of daily living

(a) Participation in a residential program, other than the Health Care Facility, is an independent living situation where limited supervision is provided by the Department.

(b) A participant in a residential program, other than the Health Care Facility, shall maintain the physical and mental capabilities necessary for admission as set forth in subsection (a) of section 27-102I(d)-108 of the Regulations of Connecticut State Agencies.

(c) Failure to comply with subsection (b) of this section may be grounds for an internal transfer or involuntary discharge.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-171. Motor vehicles

(a) The operating and parking of vehicles on the grounds of the Veterans' Home is a privilege that is granted at the discretion of the Department and may be denied or revoked at any time for any reason.

(1) To be eligible to park his vehicle on the grounds of the Department, a veteran shall:

(A) Have been in residence for no less than three (3) months, except a veteran who has entered into and maintains good standing in the Transitional Living Program,

(B) Have not been found in violation of any offense within six (6) months preceding the application and continuously during the applicable period, and

(C) Comply with rules issued by the Director of Safety and Security.

(2) The veteran shall provide the Director of Safety and Security, an application form signed by the Veterans' Home Director of the Residential Facility, or his designee, with the following information:

(A) Motor vehicle operator's license number,

(B) Motor vehicle registration (including VIN),

(C) Description of the vehicle (make, year, color),

(D) Proof of insurance, and

(E) Authorization for release of information from the Connecticut Department of Motor Vehicles.

(3) The Director of Safety and Security, upon a favorable recommendation from the Veterans' Home Director of the Residential Facility, may approve an initial

or annual renewal application, and issue stickers to be affixed to the vehicle at his direction.

(4) Parking privileges shall be denied or revoked in the event of repeated motor vehicle rules violations, substance abuse, or willful failure of the veteran to maintain his or her account in good standing.

(5) The Director of Safety and Security, Director, or Administrator may require a veteran to be medically evaluated prior to rendering a decision related to the parking privilege.

(6) The Director of Safety & Security shall revoke the parking privilege for a concurrent period upon notice that a state Department of Motor Vehicles or a court of competent jurisdiction has suspended or revoked a veteran's operator's license.

(b) A sticker is non-transferable. The veteran shall notify the Director of Safety and Security when the vehicle is transferred to any person and shall remove and return any issued sticker, even if fragmented.

(1) The Director of Safety and Security, or his designee, may assist in the removal of a sticker.

(2) The veteran shall make the veteran's vehicle available to the Director of Safety and Security, or his designee, for removal of the sticker, if the veteran's parking privilege has been revoked.

(c) Upon the request of a veteran and provision of information described in subdivision (2) of subsection (a) of this section, the Director of Safety and Security may issue a temporary parking permit which is valid for no more than three (3) months.

(d) The veteran shall lock and secure his vehicle whenever not under his immediate supervision. The Department is not responsible for any personal property or damage to the vehicle or its contents.

(e) The resident may not use a motor vehicle for the transportation of other residents, unless the driver obtains a special pass from the Veterans Home Director of the Residential Facility. The driver shall present the pass upon request of the Safety and Security personnel.

(f) Safety and Security personnel may issue a written warning to any person who fails to comply with any traffic law or regulation, including but not limited to failure to obey posted parking, speed, and access signs, and operating a vehicle in a manner that poses a danger to any person on the grounds of the Department.

(1) Warnings shall be in writing.

(2) The first warning shall be retained by Safety and Security personnel for six months. A first offense shall not result in any consequence, unless additional warnings shall be issued during the first six months following the date of the first offense.

(3) Upon the issuance of a second warning within a six (6) month period, Safety and Security personnel shall prepare a written report. This report shall be forwarded to either the Health Care Facility Administrator or the Director of the Residential Facility as appropriate, or to a supervisor, if either the operator or the owner is an employee (other than a veteran worker).

(4) If a third warning is issued within a six month period, Safety and Security personnel shall prepare a second report which shall be handled as described above. The Health Care Facility Administrator, or Director of the Residential Facility, or supervisor shall notify the Commissioner and request disciplinary action as he deems appropriate.

(5) Notwithstanding the procedure described herein, the Director of Safety and Security personnel shall immediately inform the Commissioner of any warning

issued for the operation of a motor vehicle which results in bodily injury to any person or causes any person to be at risk of such an injury. Such a violation may result in an immediate suspension of parking privileges and the violator may be prohibited from operating a vehicle on the grounds of the Department.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-172. Inspection of motor vehicles, packages and containers

(a) Safety and Security personnel may inspect vehicles entering or exiting the grounds and at any other time for the limited purpose of securing the health, safety, security, and welfare of veterans, visitors, and staff.

(b) Safety and Security personnel may inspect packages and containers.

(c) Safety and Security personnel may take any action necessary to prevent the introduction of items prohibited from state property or the grounds of the Department of Veterans' Affairs, including notification of a law enforcement agency.

(d) Safety and Security personnel shall take action necessary to prevent the removal of state property from the grounds of the Department of Veterans' Affairs, unless said removal is authorized by the Department.

(e) Any person who refuses said inspection or search shall not be subject to such an inspection or search.

(1) The person refusing shall be directed by Safety and Security personnel to leave and said personnel shall immediately escort said person from the grounds of the Department of Veterans' Affairs.

(2) Safety and Security personnel shall advise any person who refuses to comply with a request to leave. If such a request is denied, he may be charged with criminal trespass.

(f) Safety and Security personnel shall notify a law enforcement agency if and when they discover a person or parties involved in any unlawful conduct.

(Effective January 19, 1996)

Sec. 27-102I(d)-173. Locker inspections

(a) Individual lockers with locks shall be provided to individuals in the Residential Facility.

(1) Private locks may be used provided a spare key or combination number has been provided to the Wing Monitor. The Wing Monitor shall keep the key or combination in a secure manner as directed by the Director of the Residential Facility.

(2) Lockers shall be neat and clean and free of all food, unless kept in air-tight metal or plastic containers. No perishable items shall be kept. Lockers may not be used to store contraband, weapons, alcohol, inherently dangerous or flammable material, or any other items prohibited on the grounds of the Veterans' Home.

(b) Regular, announced inspections shall be held by the Veterans' Home Director of the Residential Facility or his designee on a rotating schedule.

(c) Unannounced inspections may be held by the Director of the Residential Facility, the Health Care Facility Administrator, Security, or medical staff when a violation of the rules and regulations is suspected.

(d) The veteran may be present during such an inspection, if possible.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-174.

Repealed, October 11, 2007.

Sec. 27-102I(d)-175. Authorized absences while in residence

(a) All veterans shall be expected to remain on the grounds of the Veterans Home, except that off-grounds privileges may be granted as part of the treatment program

to allow the veteran to be exposed to life beyond the grounds of this facility, including family visitation, employment, education, and recreation.

(b) All veterans who wish to leave the grounds may do so with use of a pass.

(1) A regular pass is a wallet-sized card issued by the Director of the Residential Facility to veterans performing an approved work assignment which may involve leaving the grounds.

(A) A regular pass authorizes the veteran to leave the grounds daily.

(B) A regular pass is effective until withdrawn by the Director of the Residential Facility.

(2) A special pass is a written paper authorizing an absence for a specific time period.

(A) A special pass may be obtained from the Wing Monitor or the Health Care Facility ward clerk and shall be approved by administrative, Residential, medical and/or Security staff. Such absences may be authorized for:

(i) Veteran workers who shall not be working and wish to leave the grounds

(ii) All veterans leaving the grounds overnight or longer.

(B) Only the Residential staff may extend the period of a valid pass, if the veteran requests. If no Residential staff is available, the veteran may make his request to Security personnel who shall report such requests to the Director of the Residential Facility, or designee, as presented by the veteran and shall note the reason, time, and date of each such request.

(3) A discharge pass is required for a veteran who receives a discharge from the Home for any reason and is leaving the grounds for the final time.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-176. Suspension of off-grounds privileges

(a) A regular or special pass and an attendant privilege for a leave of absence shall be suspended when a veteran:

(1) Is charged with a violation categorized as a major offense as stated in the Regulations of Connecticut State Agencies,

(2) Becomes non-compliant with his individual plan of care,

(3) Is admitted to a Hospital for in-veteran treatment, or

(4) Has developed a medical or physical condition and a physician recommends that due to that condition, the veteran should not leave the grounds.

(b) The Director of the Residential Facility may reinstate a veteran's regular pass privilege upon application by the veteran.

(1) Application forms may be obtained from the Director or the Wing Monitor for the unit where the veteran has a bed assignment.

(2) Reinstatement shall be based in part on:

(A) Compliance with the rule and regulations since the suspension began,

(B) Statement by the veteran as to his understanding of the rules and regulations that were at issue, and

(C) Recommendations of the Department's medical staff and Security.

(c) A veteran who may not have an off grounds pass shall remain on the grounds of the Department.

(d) A veteran whose whereabouts is unknown is considered absent without leave (AWOL) and may be subject to an ex-parte involuntary discharge.

(e) A veteran who is involuntarily discharged as AWOL may apply for readmission as provided in Section 27-102I(d)-107 of the Regulations of Connecticut State Agencies.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-177. Bed assignment and living area

(a) Prior to admission, each applicant shall be assigned a bed in a residential program.

(b) Veterans shall not move or change beds without permission of the Director of the Residential Facility, designee or the Health Care Facility staff.

(c) A veteran shall not enter the living area immediately surrounding the assigned bed of another veteran without that veteran's consent.

(d) Visitors in the Residential Facility shall be not permitted in living areas.

(Effective January 19, 1996; amended October 11, 2008)

Sec. 27-102I(d)-178. Curfew and bed check

(a) All veterans shall be expected to be on the grounds at 11:59 p.m. daily and continuing until 6:00 a.m. the next day following, unless authorized to be absent via a special pass or Security extension.

(b) A bed check shall be made in the Residential Facility at 11:59 p.m. and 6:00 a.m. daily by the Wing Monitor or his assistant.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-179. Pets

(a) No veteran or visitors shall have or bring any pets onto the grounds.

(b) The feeding of animals on the grounds is prohibited.

(Effective January 19, 1996)

Sec. 27-102I(d)-180. Lending and borrowing money

(a) Lending and borrowing money is prohibited between persons admitted to departmental programs and between such persons and staff, including volunteers. Any violation may result in disciplinary action against lender and borrower. The Commissioner may institute discipline regardless of whether the lender has been repaid.

(b) Departmental personnel shall not lend or borrow any other commodities with a veteran. Any employee who engages in this conduct may be subject to disciplinary proceeding.

(Effective January 19, 1996)

Sec. 27-102I(d)-181. Off-limits and restricted areas

(a) A veteran is strictly forbidden to go into the following "Off-Limits" and "Restricted Areas," except when the veteran is performing official duties or receiving treatment. These areas include:

(1) State Record Center, West Street, Rocky Hill, Connecticut;

(2) State Highway Testing Laboratory, West Street, Rocky Hill, Connecticut;

(3) East, West and North of roadway in rear of Health Care Facility building;

(4) All staff residences and staff dormitories;

(5) Clinic areas, kitchens, laundry, pharmacy, pump house, water towers, and power house;

(6) Private property adjacent to the Home grounds;

(7) The area surrounding any building where a fire alarm has sounded or as directed by emergency personnel;

(8) Any area determined by the Commissioner or designee, to be "Off-Limits" or a "Restricted Area."

(b) In an emergency, the Director of Safety and Security may post signs and erect, or cause to be erected, such barriers as necessary to ensure the safety and health of any veteran.

(1) The Director of Safety and Security shall cause such restriction to be immediately removed after the danger has ceased, or

(2) The Director of Safety and Security may apply to the Commissioner to certify that such precautions should continue as provided in Section 27-102I(d)-151 of the Regulations of Connecticut State Agencies.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-182. Visitors

(a) Visitors shall be permitted from 10:30 a.m. to 8:00 p.m. daily.

(b) Veterans in the Home shall be permitted to visit veterans in the Health Care Facility.

(c) Veterans may entertain visitors in designated areas only.

(d) At no time shall visitors be allowed in the wing area unless permission is granted by the Wing Monitor.

(1) The Wing Monitor may grant permission on a short-term basis only, usually for the purpose of assisting the veteran with pick-up or delivery of personal belongings for a period of not more than thirty (30) minutes.

(2) The Wing Monitor may call security personnel in the event that an unauthorized person enters or remains in the wing area without proper authorization.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-183. Use of electrical devices

(a) Veterans may be permitted small electrical devices such as televisions, radio, tape decks, and compact discs provided:

(1) An earphone is used at all times,

(2) No lights may be on after 9:00 p.m., including TV glare,

(3) All devices that use electricity from a wall outlet shall be checked by the Department's electrical department,

(4) No cooking is done.

(b) Microwave ovens, electric ovens, toasters, heating coils, coffee pots and similar heating or cooking devices shall be strictly prohibited.

(Effective January 19, 1996)

Sec. 27-102I(d)-184. Medical care

(a) Medical care for a veteran assigned to the Residential Facility is provided at the B Clinic.

(1) Any veteran in the Residential Facility feeling ill shall report for sick call.

(2) Medical emergencies which occur within the Residential Facility when the B Clinic is closed shall be reported immediately to the Wing Monitor and/or Security. If 911 is called, the nursing supervisor must be notified.

(b) A veteran shall notify the B Clinic when and if the veteran has received treatment and care from a health care professional outside the Department. Veterans shall use only prescription medication provided by the Department.

(c) All prescription medication shall be stored in the B Clinic, except when the B Clinic authorizes a veteran who is clinically found capable of self medication to store a limited supply as may be ordered by a physician. A veteran shall keep prescription medication in a secured manner in his individual locker.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-185. Possession and consumption of alcohol

(a) Possession of alcoholic beverages and/or consumption of alcoholic beverages on any property of the Department or a premise used for Departmental programs, services or activities, is strictly prohibited.

(b) Consumption of alcoholic beverages is discouraged, regardless of where consumed, as becoming alcohol free may be a goal of an individualized plan of care.
(Effective January 19, 1996)

Sec. 27-102I(d)-186. Substance abuse testing

(a) No veteran admitted to a residential program shall be subject to substance abuse testing, except as provided in subsections (e), (f), (g), and (h) of this section. For purposes of this section, the following definitions shall apply:

(1) "Drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act, 21 U.S.C. § 812.

(2) "Illegal use of drugs" means the use of one or more drugs, the possession, or distribution of which is unlawful under the Controlled Substances Act, 21 U.S.C. § 812. The term illegal use of drugs shall not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of federal or state law.

(3) "Current illegal use of drugs" means illegal use of drugs that occurred recently enough to justify a reasonable belief that a person's drug use is current or that continuing use is a real and ongoing problem.

(4) "Substance abuse" means the current illegal use of drugs, the current use of alcohol in contradiction of the user's plan of care, or both.

(b) The purposes of substance abuse testing shall be the following:

(1) To assist veterans who:

(A) Need to initiate substance abuse treatment, or

(B) Shall be in active substance abuse treatment, or

(C) Shall be in the maintenance phase of a recovery program, and

(2) To deter veterans from illegal use of drugs and alcohol abuse.

(c) For veterans subject to substance abuse testing pursuant to this section, the Department shall consider the refusal to submit to a substance abuse test as a positive test result. This includes the refusal to submit to an intoximeter test to determine levels of alcohol.

(d) Results of testing shall be used for rehabilitation purposes only, which may include disciplinary action, and shall be confidential in accordance with state and federal law. The Department shall not report test results to the police to initiate criminal prosecution.

(e) Program Directed Testing

(1) "Program directed testing" means the ordering of urine samples on a weekly basis, only as part of a current treatment plan approved by the Department. The goal of all treatment is complete abstinence from alcohol and drugs. Program directed testing may be used to detect alcohol and/or drugs. The Department shall specify to the laboratory whether urine is to be tested for alcohol, drugs, or both.

(2) Program directed testing shall continue until successful completion of the treatment, as outlined in the treatment plan.

(3) Unless otherwise instructed at the time of notification, those veterans subject to program directed testing shall report to the Director of the Residential Facility or designee for testing within one hour of being notified. The failure to show or refusal to be tested may result in disciplinary action as defined in Section 27-102I(d)-213(d) of the Regulations of Connecticut State Agencies.

(f) Testing for Current Illegal Use of Drugs

(1) Testing for current illegal use of drugs shall be clinically indicated if a veteran is not participating in program directed testing and a veteran has:

(A) Had a confirmed positive test result for illegal use of drugs, as set forth in the regulations of Connecticut state agencies, within the last two years, or

(B) Had a conviction for possession or sale of illegal drugs, within the last two years, or

(C) Participated in a drug detoxification or drug rehabilitation program, either prior to, or after admission to the facility, within the last two years.

(2) Only veterans who meet at least one of the criteria as set forth in subsection (f)(1) of this section shall be tested for current illegal use of drugs. If a veteran is subject to testing for illegal use of drugs, this shall be documented in the veteran's medical record, along with any test results.

(3) Testing for illegal use of drugs shall be done randomly, i.e., at no specific time interval, with no predictability, and with no advance notice. The Health Care Facility's laboratory staff shall compile and maintain a list of veteran case numbers for those subject to testing under this subsection. Selection of case numbers shall be based on use of a computer program that randomly selects its case numbers. Random selection creates an equal probability of each veteran on the list being selected on each test date. The Health Care Facility's laboratory shall not exercise any discretion when administering the random selection process.

(4) Unless otherwise instructed at the time of notification, veterans subject to testing under this subsection shall report to the Director of the Residential Facility or designee for the test within one hour of being notified that the test shall be performed.

(5) The Health Care Facility's Laboratory shall receive specimens from all veterans selected for testing as a result of the random selection process and as otherwise provided in the regulations of Connecticut state agencies. The Health Care Facility's Laboratory shall notify the Director of the Residential Facility, or his designee, in the event that a veteran fails to provide a specimen in compliance with this section. Failure to show or refusal to be tested may result in involuntary discharge.

(6) When a veteran subject to testing for illegal use of drugs has gone two years without an occurrence of any of the clinical indicators in subsection (f)(1) of this section, the veteran shall no longer be subject to testing under this subsection.

(g) Medically Directed Testing

(1) Medically directed testing is performed at the B Clinic or the Health Care Facility's Clinic and is ordered by a health care professional authorized to order tests. It may be used when the health care professional responsible for the veteran's care has observed or been informed of a change in the veterans behavior which may require ruling out medical causes.

(2) The Director of the Residential Facility or the Health Care Facility Administrator may refer a veteran for medically directed testing:

(A) If that person has observed or been informed of a change in the veteran's behavior that may require ruling out medical causes,

(B) If it is determined that the veteran possesses alcohol or drugs on the grounds, or

(C) If the veteran displays at least two of the conditions listed in subsection (h)(3) of this section.

(3) If a veteran refuses to accept a referral for medically directed testing or refuses to be tested, such a refusal shall be documented in the veteran's medical and/or administrative record. Veterans refusing such a referral or test may be subject to disciplinary action, which may include involuntary discharge.

(h) Administratively Directed Testing

(1) "Administratively directed testing for detection of alcohol" is testing ordered by the Director of Safety and Security or a designee.

(2) Administratively directed testing is accomplished by use of an intoximeter test. Buildings and Grounds Patrol Officers ("Patrol Officers") shall be responsible for performing administratively directed intoximeter tests. Patrol Officers shall follow the manufacturer's guidelines and instructions for administering intoximeter testing.

(3) All veterans shall be subject to an intoximeter test if at least two of the following conditions may be evident:

- (A) Veterans may be observed to be staggering, swaying, or unstable.
- (B) Veterans have strong odor of alcohol.
- (C) Veterans seem to have slurred speech.
- (D) Veterans appear to be disoriented.
- (E) Veterans display disruptive behavior.

(4) Patrol Officers shall be consistent in the application of the above criteria for testing.

(A) The above criteria shall apply to all veterans, regardless of whether they shall be accompanied onto the grounds by the Rocky Hill Police Department.

(B) The above criteria shall not apply if veterans shall be subject to intoximeter testing pursuant to other Department policies.

(5) If a veteran refuses to accept a referral for an intoximeter test or refuses to be tested, such refusal shall be documented in the veteran's medical and/or administrative record. Veterans refusing a referral or testing may be subject to disciplinary action, which may include involuntary discharge.

(6) All intoximeter readings shall be documented on intoximeter forms and submitted to the Director of the Residential Facility.

(A) If a veteran has a reading greater than .15, the veteran shall be transported to the B Clinic or the Health Care Facility's Clinic for evaluation.

(B) All veterans needing medical attention, regardless of the intoximeter reading, shall be transported to the appropriate clinic.

(i) All urine specimens shall be collected in accordance with: the Health Care Facility's policy and procedures.

(1) The taking of the urine samples shall be observed by the Laboratory supervisor or a designee other than a veteran worker. The observer shall be the same gender as the veteran.

(2) As may be clinically indicated, and as specified in the veteran's individual treatment plan or medical record, specimens may be analyzed for illegal use of drugs, including but not limited to the presence of cocaine, THC (marijuana), amphetamines, and opiates. Specimens obtained pursuant to program directed testing may also be analyzed for the presence of alcohol.

(3) Procedures for collection, storage, and processing of urine specimens shall be followed to prevent tampering.

(j) Test Results

(1) For program directed tests to detect alcohol, a positive result means the presence of at least 25 mg/ml of alcohol.

(2) For program directed tests and tests to detect illegal use of drugs and medically directed tests, a positive result means the presence of at least 50 ng/ml of THC: 300 ug/ml of cocaine, 300 ug/ml of opiates, or 1000 ug/ml of amphetamines.

(3) For administratively directed or medically directed intoximeter testing for alcohol abuse, intoxication is defined by levels of use which meet or exceed standard legal criteria for intoxication.

(4) A test result that is reported positive may be confirmed by a second positive test result with a different testing methodology, except that the results of an administratively directed intoximeter test may be confirmed by an intoximeter test at the B Clinic or the Health Care Facility's Clinic.

(5) The laboratory supervisor shall provide confirmed positive test results directly to the Director of the Residential Facility or a designee, the attending physician, and the program administrator of the substance abuse service.

(k) Notwithstanding the provisions of the Regulations of Connecticut State Agencies to the contrary, veterans with confirmed positive test results shall be subject to the following:

(1) After any confirmed positive urine test result and/or a breathalyser reading which meets or exceeds standardized criteria for intoxication, the veteran shall attend an informal conference with the Director of the Residential Facility or his designee. The veteran may enter into a written agreement with the Department in accordance with the provisions of Section 27-102I(d)-213 of the Regulations of Connecticut State Agencies.

(2) If the veteran and the Department do not resolve the issue at an informal conference, the veteran may request an administrative inquiry in accordance with Section 27-102I(d)-210 through Section 27-102I(d)-212 of the Regulations of Connecticut State Agencies.

(3) Any veteran assigned to a bed in the Veterans Recovery Center or Transitional Living Center may be reassigned to the Residential Facility upon one confirmed positive test result. This also includes a breathalyser reading which meets or exceeds standardized limits for intoxication.

(l) The Department shall inform veterans at the time of admission or at the development of the individual treatment plan of the consequences of the failure to comply with the Department of Veterans Affairs regulations regarding substance abuse violations.

(m) The need for program directed testing and testing for illegal use of drugs shall be reviewed at least annually by DVA administration.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-187. Transportation

(a) Transportation is provided for veterans by the Maintenance Department in state vehicles provided such transportation is authorized by the administrative or medical staff.

(b) The following situations shall be prohibited by the Department of Veterans Affairs, unless expressly approved by the Director of Safety and Security or the Director of the Residential Facility:

(1) A patient driver with a patient passenger.

(2) A patient driver with an employee passenger.

(3) An unauthorized employee driver with a patient passenger.

(Effective January 19, 1996; amended October 11, 2007)

Secs. 27-102I(d)-188—27-102I(d)-199. Reserved

PART B

Violations

Sec. 27-102I(d)-200. Major offenses

(a) The following conduct and activities shall be considered major offenses for Sections 27-102I(d)-140 through Section 27-102I(d)-199 of the regulations of Connecticut state agencies:

(1) "Assault" which means any physical attack upon any other person and generally resulting in personal injury or risk of injury Section 53a-59 through Section 53a-64 of the Connecticut General Statutes.

(2) "Possession of intoxicants or unprescribed drugs" which means that Section 53a-174 of the Connecticut General Statutes.

(A) No veteran shall introduce alcohol or illegal substances on the grounds for consumption or sale.

(B) Only drugs prescribed by departmental physicians may be in the possession of veterans or staff.

(3) "Possession of firearms, dangerous weapons, or hazardous materials" meaning firearms, ammunition, inherently dangerous weapons or objects, gasoline, or similar substances which shall be flammable or dangerous Section 53a-174 of the Connecticut General Statutes.

(4) "Gambling" as defined in Section 53-278a of the Connecticut General Statutes, unless otherwise authorized by law and under valid permits, if applicable.

(5) Smoking in bed or smoking in areas other than in designated areas.

(A) Smoking is permitted only in areas so marked by the Commissioner.

(B) Smoking is prohibited in all other locations.

(6) Any conduct, including the operation of a motor vehicle, which results or could result in personal injury to any person or places the veteran or another person at risk of injury.

(7) Entry into any restricted area.

(8) Refusal to follow reasonable instructions from Security personnel, Wing Monitor, and other staff during an emergency, assault, or confrontation.

(9) Tampering with or destroying any emergency equipment or exit signs.

(10) Repeated violations of any minor offense listed in Section 27-102I(d)-201 of the regulations of Connecticut state agencies, provided the veteran is given the opportunity to cease such violations by formal written notice prior to the designation of such violation as a major offense.

(b) As to assault as defined in subdivision (1) of subsection (a) of this section, self-defense may be a valid justification, but only to the extent necessary to protect and preserve the veteran's own health, safety, and well being. A veteran shall withdraw or make efforts to avoid physical contact with the other party to preserve the defense.

(Effective January 19, 1996)

Sec. 27-102I(d)-201. Minor offenses

All offenses not within Section 27-102I(d)-200 of the regulations of Connecticut state agencies, shall be considered minor offenses for Sections 27-102I(d)-140 through Section 27-102I(d)-199 of the regulations of Connecticut state agencies, and shall include but not be limited to the following:

(1) "Intoxication" meaning the veteran consumed an amount of alcohol sufficient to inhibit or slur speech, to compromise ambulation, to affect socialization or to impair memory such that Security personnel, the Wing Monitor or other staff make observations about the same. Clinical intoxication shall be confirmed through standardized breathalyser readings (≥ 100).

(2) "Absence Without Leave" (AWOL) from grounds or job, meaning the veteran's whereabouts is unknown.

(3) Curfew or lights out violations.

(4) Any verbal argument or outburst that escalates to the point that Security is called.

(5) Borrowing or lending money, meaning between veterans or between veterans and staff.

(6) Violation of posted traffic signs, reckless driving, or operating a vehicle in other than designated parking area or paved road surface.

(7) Refusing to allow inspection of a motor vehicle, package, or container upon entry onto the grounds of the Department, except when the veteran declines such a request and may not come onto the grounds with the object or property which was not inspected.

(8) Failure to comply with a component of a treatment plan.

(9) A confirmed positive test result involved in either a directed or random urine test.

(10) Harboring a pet.

(Effective January 19, 1996)

PART C

Procedure For Resolving Alleged Rules Violation

Sec. 27-102I(d)-202. Staff responsibilities

In the event a veteran allegedly violates or disobeys any rule, regulation or law, lead staff responsibilities shall be based on residential program assignment:

(1) For all veterans residing in the Residential Facility, the Director of the Residential Facility or designee shall oversee the preliminary investigation and determine a proposed agency action as described; and

(2) For a veteran residing in the Health Care Facility, the Administrator shall oversee the preliminary investigation and determine a proposed agency action as described in section 27-102I(d)-51 of the Regulations of Connecticut State Agencies; or

(3) For a situation involving the Residential Facility and Health Care Facility, the Director and Administrator shall by consensus designate either the Director or Administrator, or jointly handle the matter:

(A) A decision to jointly handle an investigation is subject to the approval of the Commissioner, or his designee.

(B) The Commissioner, or designee, may approve the joint investigation or designate either the Director or Administrator to perform the investigation.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-203. Reporting and investigating alleged violations

(a) Any veteran, visitor, or departmental staff members, who have a reasonable belief that a violation occurred or may have occurred, may report said violation to Safety and Security personnel, the Administrator, the Director, or any other departmental personnel.

(1) Any person, other than Security from the Department of Safety and Security may make an allegation or report anonymously.

(2) The lack of knowledge as to the informer's or reporter's identity shall be a factor considered in the investigation.

(3) If the informant's or reporter's identity is known and that person requests anonymity, the request shall be honored to the extent permitted by federal and state law.

(b) Safety and Security personnel shall investigate and prepare a written report on each alleged violation, unless said allegations cannot be substantiated after a preliminary investigation.

(Effective January 19, 1996)

Sec. 27-102I(d)-204. Immediate action

(a) Departmental staff may take immediate action when there is imminent danger of harm to a veteran, or any other veteran, visitor or staff, or to ensure order, enforce discipline, and preserve the health of any person.

(b) Departmental staff may call for assistance from State Police or the local police, or emergency medical personnel, to evaluate or transport a veteran.

(1) In the event a crime is being investigated, Safety and Security personnel shall take whatever steps necessary to preserve the scene of the crime and any evidence and shall assist any law enforcement officer assigned to investigate the crime.

(2) If bodily injury is known to have occurred, the Health Care Facility or B Clinic shall be contacted.

(c) Safety and Security personnel may order a person to leave the grounds of the Department or a facility under its control.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-205. Reporting violations

(a) Any person witnessing a criminal violation of law should notify Security.

(b) Security shall be called when:

(1) A patient, visitor or staff person has been injured by another person or himself,

(2) Staff is unable to restore order,

(3) Personal or state property has been damaged or stolen, or

(4) Fire or other hazardous conditions exist which may or shall create a risk-of-injury to any person.

(c) Security shall respond to all calls and give priority to situations that involve personal injury or risk of injury to a patient, visitor, or staff member.

(Effective January 19, 1996)

Sec. 27-102I(d)-206. Initiating an investigation

(a) Safety and Security shall initiate an investigation when such personnel observe or receive information concerning alleged rules violations.

(1) Allegations and complaints received by the Director or Administrator may be referred to Security for investigation, or handled directly.

(2) Any matters handled directly by the Director or Administrator shall be communicated to the Director of Safety and Security.

(b) If Security determines that the alleged violation did or may have occurred, Security shall submit a written report to the Veterans Home Director of the Residential Facility.

(c) The Director shall forward to the Administrator any Security Report concerning a Health Care Facility veteran and may recommend a joint investigation.

(d) The Director or Administrator shall notify the Affirmative Action Administrator upon discovering that a major offense under investigation involves, or may involve, issues related to unequal or discriminatory actions based on race, religion, national origin, ethnicity, age, gender, sexual preference, or any other protected right.

(1) The Affirmative Action Administrator, at his discretion and upon his own initiative, may assist or serve as a consultant to the Director or Administrator during

all phases of the procedures set forth in the regulations of Connecticut state agencies after giving notice of his involvement to the Director or Administrator, as appropriate.

(2) The participation in the investigation may not affect other rights and obligations of said Affirmative Action Administrator, nor the rights held by any person under Chapter 814c of the Connecticut General Statutes.

(3) The Affirmative Action Administrator shall report to the Commissioner concerning such matters as they may require the revision of the agency's rules and regulations.

(4) The Affirmative Action Administrator may from time to time review the investigation and inquiry the results of matters handled by the Director and/or Administrator for compliance with applicable Affirmative Action laws and regulations.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-207. Preliminary investigations

Upon receiving a written report from Security or upon receipt of a complaint directly, the Director or the Administrator may investigate, as appropriate to a given case, by taking one or more of the following actions:

(a) Request the author of the report to clarify the report and, at his discretion, may request the report be amended, modified, or supplemented,

(b) Receive information from any person with personal knowledge of the alleged violation,

(c) Receive information from the other departmental staff familiar with the veteran and who have personal knowledge relevant to the pending investigation,

(d) Review the individual's treatment plan and behavior contract, if applicable, and analyze for violations thereof,

(e) Hold an informal conference with the veteran or personal representative,

(f) Request information from persons who have personal knowledge relevant to the pending investigation,

(g) Make a preliminary determination of the nature and extent, if any, of the alleged offense or offenses, and

(h) Order substance abuse counseling or testing as provided in the regulations of Connecticut state agencies.

(Effective January 19, 1996)

Sec. 27-102I(d)-208. Informal conferences

(a) Informal conferences may be held by the Director or Administrator and provide an opportunity for the veteran to clarify the facts and circumstances of an alleged offense. A veteran shall have an opportunity to offer his perspective during the informal conference.

(1) An informal conference shall be held during any investigation in which the veteran verbally or in writing requests a review or requests to make a statement pertaining to an allegation or investigation.

(2) Informal conferences, if held at all, shall be held as soon as possible, but not later than seven (7) days after receipt of a request, the complaint or written report from Security whichever is later. However, failure to comply with this provision may not have an effect on any process undertaken to resolve the matter or effect the imposition of any discipline.

(b) Upon a determination by the Director or Administrator that a substantiated complaint involves a major offense, the Director or Administrator shall provide the veteran with notice of a proposed agency action related to the alleged major offense.

(c) When the charge or complaint alleges substance abuse by the veteran, the Director or administrator may, following or during the informal conference, take one or more of the following actions:

- (1) Order a urine test, or
 - (2) Refer the veteran to the Substance Abuse Treatment Program for evaluation and development of an individual plan of care that shall include assignment to a directed or random urine testing schedule, or
 - (3) Assign the veteran to a Health Care Facility bed, if medically necessary to ensure the veteran's continued well being or initiate a transfer to another facility for detoxification, if clinically indicated.
- (d) Failure to appear at the scheduled informal conference shall result in immediate suspension of off-grounds privileges, unless waived by the Director or Administrator for cause.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-209. Preliminary administrative action

(a) After receiving a report from Security, performing his own investigation, or following an informal conference, if held at all, the Director or Administrator shall decide to:

- (1) End the investigation and take no further action,
- (2) Issue a warning and take no further action,
- (3) Enter into a written agreement with the veteran resolving the matter, including but not limited to adjusting the veteran's individual treatment plan,
- (4) Prepare a written notice to the veteran as to the proposed disciplinary action which may bring the matter to closure, including but not limited to loss of privileges and discharge.

(b) The Director or Administrator shall give the veteran notice of its conclusion and decision under subsection (a) of this section.

(c) The veteran shall be advised of his right to a Formal Administrative Inquiry. If the veteran is not represented by legal counsel, the veteran may request that a third party be present and participate in the administrative inquiry, so long as the third party is not the complainant, a witness, or involved in the controversy at issue in any way. The veteran shall bear any and all expenses associated with the attendances of his or her legal council or third party.

(Effective January 19, 1996)

Sec. 27-102I(d)-210. Notice of proposed action

A notice under Section 27-102I(d)-209 of the regulations of Connecticut state agencies shall state in plain language:

- (a) The date, time and location of the administrative inquiry,
- (b) The rules or regulations allegedly violated,
- (c) The fact(s) upon which the proposed disciplinary action is based,
- (d) The proposed disciplinary action, and
- (e) The opportunity for the respondent to reply to the alleged violation and to explain why the proposed disciplinary action should not be taken.

(Effective January 19, 1996)

Sec. 27-102I(d)-211. Notice procedure for administrative inquiry

(a) Unless by agreement to the contrary, the veteran shall be notified in writing no less than twenty-four (24) hours prior to an administrative inquiry.

(b) Unless by agreement to the contrary, an administrative inquiry shall be held within fourteen (14) days of the notice.

(c) When a conservator of the person has registered with the Commissioner, a notice of the administrative inquiry shall be provided to the conservator and to the ward, unless specifically instructed otherwise by the conservator.

(Effective January 19, 1996)

Sec. 27-102I(d)-212. Duties of director and administrator during an administrative inquiry

(a) The Director or Administrator shall conduct the inquiry, receive the respondent's reply, read all reports and establish the preliminary findings of facts of the charge or allegation.

(b) The Director or Administrator shall decide to:

- (1) Dismiss the charge or allegation,
- (2) Issue a warning,
- (3) Suspend the off-grounds privileges of the veteran as described herein, or
- (4) Recommend to the Commissioner the discharge of the veteran.

(Effective January 19, 1996)

Sec. 27-102I(d)-213. Disciplinary actions following an informal conference or an administrative inquiry

(a) The Director or Administrator may propose an involuntary discharge or suspension of off-grounds privileges subject to the conditions in subsections (b) and (c) of this section.

(b) An involuntary discharge may be proposed only if a major offense as defined in the regulations of Connecticut state agencies has been substantiated as a result of an administrative inquiry.

(1) The Director or Administrator may suspend the discharge for a period of not more than six (6) months and such a stay shall automatically end upon a finding of a second major offense, subject to a new administrative inquiry.

(2) Any veteran who is found with the possession of any illegal substance shall be involuntarily discharged. Veterans involved in the selling or distribution of illegal substances shall be involuntarily discharged. This includes veterans in possession of drug paraphernalia.

(c) Suspension of off-grounds privileges shall be determined by considering:

- (1) Severity of the offense,
- (2) The number of offenses within the preceding twenty-four (24) months,
- (3) The individual treatment plan, and
- (4) Willingness of the veteran to cooperate.

(d) Except as provided in subsection (e) of this section, disciplinary action shall be administered as follows:

(1) First Minor Offense - Suspension of off-grounds privileges for fifteen (15) days.

(2) Second Minor Offense - Suspension of off-grounds privileges for thirty (30) days and suspension of veteran payroll position for fifteen (15) days.

(3) Third Minor Offense - Suspension of off-grounds privileges for sixty (60) days and suspension of veteran payroll position for thirty (30) days.

(4) Fourth Minor Offense - Suspension of off-grounds privileges for sixty (60) days plus approval needed by the Director to leave the grounds for an additional four (4) months and suspension of veteran payroll position for six (6) months.

(5) Fifth Minor Offense - Involuntary Discharge

(e) The Administrator or Director may substitute less severe disciplinary action then provided in subsection (d) of this section if in his opinion such lesser action is warranted.

(f) After every substance abuse related offense, the veteran is referred to the Substance Abuse Treatment staff for reassessment of motivation and need for further treatment.

(Effective January 19, 1996)

Sec. 27-102I(d)-214. Request for desk review by commissioner

(a) If a proposed agency decision is made by a designee, the Director or Administrator, the designee shall forward the proposed decision to the Director or Administrator, as appropriate for a desk review. Following said desk review, the agency's proposed decision shall be submitted to the Commissioner for his review, if the proposed decision is for a discharge or the veteran requests a review under subsection (b) of this section.

(b) Any veteran subject to an administrative inquiry who disagrees with an agency decision may petition for a desk review or other review by the Commissioner or his designee.

(c) The Commissioner may order an informal conference.

(d) The Commissioner may deny or grant any such request and may thereafter, if granted, modify, reverse, or affirm the decision rendered.

(e) Granting a review may not create a contested case or any right of appeal for further review.

(Effective January 19, 1996)

Secs. 27-102I(d)-215—27-102I(d)-224. Reserved

PART D

Safety and Security

Sec. 27-102I(d)-225. Safety and security general duties

(a) The Safety and Security section of the Department of Veterans Affairs is charged with the responsibilities for:

(1) Providing a safe and secure environment for veterans, staff, and visitors of the Department of Veterans' Affairs.

(2) Assisting departmental staff to learn the whereabouts of veterans who may have been authorized to leave the grounds.

(3) Protecting property against theft, fire and vandalism.

(4) Investigating and enforcing rules and regulations.

(5) Maintaining professional working relationships with the State Police and Municipal Police.

(b) Safety and Security may be called by Wing Monitors and Health Care Facility staff to assist with unruly veterans.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-226. Law enforcement agency assistance

(a) Safety and Security personnel may request assistance from State Police or Rocky Hill Police, including but not limited to the following situations:

(1) Unregistered motor vehicles,

(2) Motor vehicle accidents,

(3) Theft or destruction of property,

- (4) Crimes against a person, including serious threats of injury to a person,
- (5) Personal injury,
- (6) Discovery of firearms or other deadly weapons,
- (7) Possession of an illegal substance, or
- (8) Untimely or unusual death.

(b) The Commissioner shall maintain memorandums of understanding with State Police and Rocky Hill Police which shall establish protocols and procedures for use of each law enforcement agency.

(Effective January 19, 1996)

Sec. 27-102I(d)-227. Use of force

(a) Safety and Security personnel may not use force to detain or restrain any person, unless necessary to protect himself, the patient, or any third person from imminent physical harm.

(b) Safety and Security personnel shall be required to retreat or employ techniques other than the use of force, if possible, prior to the use of force.

(c) The use of handcuffs is limited to restraining a violent, disruptive or unruly person, if necessary to protect any person (including the patient) from imminent physical harm, if directed to do so by a licensed physician or law enforcement personnel, and if all other de-escalation techniques and defensive measures have failed.

(1) In the event any person is in danger of serious bodily injury or death, Safety and Security personnel may as a last resort use handcuffs or self-defense spray such as Oleoresin Capsicum (OC) Defensive Spray.

(2) Safety and Security Personnel shall complete an Incident Report for each occurrence of the use of force including but not limited to the use of handcuffs and a self defense spray.

(d) If handcuffs or any other restraint is employed by Safety and Security, such use shall be terminated as soon as possible and with the prior approval of the party who authorized the use, if other than Safety and Security personnel.

(Effective January 19, 1996)

Sec. 27-102I(d)-228. Security of personal property

(a) Each veteran shall be responsible for the security of his personal property, including motor vehicles.

(b) In the event a veteran or former veteran is unable to provide for the security of his personal property, Safety and Security personnel shall provide for the security and storage of said property as follows:

(1) In a case of an unusual or untimely death, Safety and Security Personnel shall secure the scene to ensure the decedent's personal property is neither removed nor disturbed until authorized by State Police.

(2) For all decedent and former veterans who either may be involuntarily discharged or whose whereabouts may be unknown, Safety and Security personnel shall cause an inventory to be made of the personal property and secure said property for storage.

(A) Personal property once inventoried may be released to the next of kin, a personal representative, or a funeral director unless otherwise directed by law enforcement personnel or court order.

(B) Any person receiving said items shall be required to sign in receipt thereof.

(c) The Director of Safety and Security personnel may authorize the towing and storage of any motor vehicle abandoned or not authorized to be parked or operated

on the grounds of the Department. Said towing and storage shall be at the owner's expense.

(Effective January 19, 1996)

Secs. 27-102I(d)-229—27-102I(d)-249. Reserved

ARTICLE VI

PAYMENT FOR SERVICES AND CARE

PART A

General

Sec. 27-102I(d)-250. Guiding principles

The following guiding principles shall govern the interpretation of the regulations pertaining to veteran billing and the settling of accounts.

(a) Each and every veteran who is able to manage his own financial affairs is free to do so. A rebuttable presumption exists in favor of the veteran's ability to do so.

(b) When a veteran is not able to or elects not to manage his own financial affairs, the veteran may designate a party of his choosing to do so on his behalf.

(c) Admission to any program administered by the Department of Veterans' Affairs shall not in and of itself infringe on the right of a veteran to manage his own affairs, including financial.

(d) As a condition of residence and program participation, each veteran shall pay for services rendered to him in an amount based on his ability to pay as determined by the Commissioner or his designee.

(e) Each veteran who is not able to pay the full cost of services rendered shall remain liable for the full amount, minus any payments received, and shall be obligated to make payments on any amount due and owed in the event that he gains the ability to pay during his lifetime or through his estate upon his death.

(Effective January 19, 1996)

Sec. 27-102I(d)-251. Definitions

The following definitions apply to veteran billing and payments as described in Section 27-102I(d)-250 through Section 27-102I(d)-299 of the Regulations of Connecticut State Agencies, unless expressly provided otherwise.

(a) "Ability to manage financial affairs" is the mental and physical capacity of a veteran to receive, to deposit, and to order payment of obligations incurred and handle cash.

(b) "Ability to pay" is an amount determined by the Commissioner that the veteran has available or can make available for the purpose of paying for services received from the Department and which sets the minimum payment due when the Department presents its monthly billing statement.

(c) "Asset disregard" is the level of assets that is excluded from the calculation of the ability to pay.

(d) "Community spouse allowance" means an income disregard, in addition to his personal need allowance, which a veteran may claim, if legally married, and thereby cause the computation of his ability to pay to be reduced by the lesser of the amount he actually pays to a spouse living in the community or the maximum disregard set in Section 27-102I(d)-257 of the Regulations of Connecticut State Agencies.

(e) "Countable assets" shall be all assets not excluded.

(f) "Excluded asset" is an asset categorically excluded from the computation and determination of the ability to pay.

(g) "Excluded income" is income categorically excluded from computation of the ability to pay.

(h) "Income disregard" is the level of income that is excluded from the calculation of the ability to pay, based on the sum of personal needs allowance, community spouse allowance, child support, and alimony payments.

(i) "Delinquent accounts receivable" means the cumulative dollar amount of all charges for any services rendered without regard to the determination of the ability to pay less amounts credited to that veteran's account and less amounts billed as a minimum payment due, but not past due. The delinquent accounts receivable becomes payable at such time the Department determines that the responsible party is able to pay or after the death of the veteran from his estate.

(j) "Minimum payment due now" means a specific dollar amount which the Commissioner demands that the veteran immediately pay over to the department based on the Commissioner's determination of the veteran's ability to pay.

(k) "Monthly billing statement" is a notice to the veteran of the minimum payment due now and a demand for payment in a specific amount which the veteran is required to pay over to the Department immediately to maintain an account in good standing.

(l) "Veteran billing system" is the information system that the Department uses for the computing, invoicing, billing, collecting and crediting accounts for each veteran participating in a program, activity or service for which the Department charges or receives payment from the participants and others.

(m) "Past due amount" is the cumulative total of the minimum payment due now, minus payment received by the Department from the veteran.

(n) "Veteran invoice" is a monthly report of days of care rendered to a veteran during the month, multiplied by the applicable fee or per diem. The veteran invoice shall also include any fees for any other services rendered to the veteran.

(o) "Personal needs allowance" means an income disregard which the Commissioner may not use in the computation of the ability to pay and which the veteran may retain from his income for personal use during the month received without restriction.

(p) "Personal representative" is any person representing the veteran in his financial affairs, including persons holding a valid power of attorney, attorney-in-fact, spouse, or other person in possession of the veteran's estate and serving in a fiduciary capacity.

(q) "Statement of account" is an ongoing detailed listing of:

(1) The cumulative delinquent accounts receivable,

(2) Amounts charged for services rendered during all periods of admission, care or treatment,

(3) Amounts credited during all periods of admission, care, treatment and thereafter, and

(4) Any amounts due and owing to the Department.

(r) "Support payment" means an income disregard, in addition to his personal need allowance, which a veteran may claim if subject to a court order to pay for the maintenance of a former spouse (alimony), an adult disabled child, or a minor, or the amount actually paid, whichever is less. It may not include any gratuitous payments.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-252. Rights and obligations

(a) Each veteran participating in any program administered by the Department of Veterans' Affairs shall have a right to manage his or her own financial affairs, including the right to designate a personal representative.

(b) Each veteran participating in any program administered by the Department of Veterans' Affairs shall be legally liable for payment of services rendered to him and shall be obligated to keep his account in good standing.

(c) Admission to any program administered by the Department of Veterans' Affairs shall not limit the right of the veteran to otherwise manage his financial affairs and the Department shall not interfere with the same, except as provided by law(s), including but not limited to applying to a court of competent jurisdiction for appointment of a conservator of the estate.

(d) The Commissioner may, on behalf of a veteran for whom the Commissioner holds a valid power of attorney, designate a Department of Veterans' Affairs' employee who is familiar with the needs of said veteran to manage the veteran's financial affairs.

(e) In the event the Commissioner determines, based on the recommendation of medical or programmatic staff familiar with the veteran's needs, a veteran may not have the ability to manage his personal affairs, he may apply to a court of competent jurisdiction for the appointment of a conservator of the estate.

(f) The Commissioner, or his designee, shall provide any veteran participating in any program administered by the Department of Veterans' Affairs, information about and assistance with obtaining benefits from all assistance programs for which the veteran may be eligible. When the Commissioner finds a veteran incapable of completing such forms, he shall notify the veteran's personal representative or he may apply to a court of competent jurisdiction for appointment of a conservator of the estate or person.

(g) The Department of Veterans' Affairs may accept, in lieu of immediate payment, assignment of assets for future delivery to the Department, so long as a value certain can be ascertained at a future date certain. The value of the assignment to the Department may exceed the minimum payment due now.

(h) The Commissioner shall require a veteran to show documentation of a valid marriage when the veteran claims a community spouse allowance income or asset disregard and evidence of actual payments. Claiming a community spouse allowance shall not reduce the personal needs allowance.

(i) When the veteran claims a support income disregard, the Commissioner shall require a veteran to show:

(1) Documentation of a legal obligation to support a former spouse (alimony), an adult disabled child or minor, and

(2) Evidence of actual payments.

(j) Claiming a support obligation shall not reduce the personal needs allowance.

(Effective January 19, 1996)

Sec. 27-102I(d)-253. Fiduciary duties

(a) The Department may serve in a fiduciary capacity by agreement with the veteran in residence or by way of an involuntary assignment of income. When serving in a fiduciary capacity, the Department shall:

(1) Take actions only that shall be in the best interest of the veteran, including maintaining an account in good standing, and

(2) If the veteran is or may be eligible for a third party payment, including federal veteran's benefits, Medicaid and Medicare, based on a means test or other qualifying criteria, the department shall take actions designed to ensure initial and continued eligibility for such benefits and programs, and

(3) Reduce the assets of veterans not already on Medicaid as required under Section 27-102I(d)-257 of the regulations of Connecticut state agencies, and

(4) Reduce the assets of veterans not already receiving Federal Veterans' benefits from the Federal Department of Veterans' Affairs.

(b) The Department and any of its employees and agents shall not serve in the capacity of financial advisor or planner for a veteran, his personal representative, or family.

(Effective January 19, 1996)

PART B

Payment and Billing Procedures

Sec. 27-102I(d)-254. Liability for services rendered

(a) Each veteran or his legally liable relative shall be liable for the cost of services rendered, except as otherwise provided in the Regulations of Connecticut State Agencies and state or federal law(s). A presumption shall exist that a veteran can pay in full for all services rendered. The burden is at all times on the veteran to demonstrate that he is without the ability to pay.

(b) Each veteran who requests an application for admission to any program administered by the Department of Veterans' Affairs shall be given notice as to current fees for services requested and a brief explanation of the current billing procedure as described in the Veteran Handbook.

(c) The veteran may request, prior to accepting or being admitted to any program administered by the Department of Veterans' Affairs that the Department make a preliminary determination of his ability to pay. The Department shall respond, if complete information is provided to the Department in a timely manner.

(d) The notice described in subsection (b) shall be given to the applicant's personal representative or any other person requesting the admission on behalf of an incapable veteran. If and when an incapable veteran regains his capacity to manage his own affairs, the notice described in subsection (b) of this section shall then be provided to the veteran.

(e) The notice described in subsection (b) of this section shall include a statement that failure to satisfy the minimum payment due now is grounds for discharge.

(f) Ability to pay shall not be a factor considered in the admission decision process undertaken by the Commissioner or his designee.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-255. Billing statement

(a) In accordance with the published billing procedures and process as stated in the Veteran Handbook and admission application, the Department shall issue a monthly billing statement to each veteran admitted to the Home for each month while in residence. The monthly billing statement shall contain:

- (1) Name of the veteran,
- (2) Case number,
- (3) Period of billing,
- (4) Date prepared,

(5) Payment due date,

(6) All transactions, including charges, credits and receipts, including advanced payments if any,

(7) Minimum payment due now, and

(8) Delinquent Accounts Receivable.

(b) The delinquent Accounts Receivable may remain unpaid until the veteran's ability to pay can accommodate payment in full or in part. In the event a veteran gains the ability to meet his delinquent Accounts Receivable or if the veteran dies, the delinquent Accounts Receivable shall become due and owed immediately by the veteran or his decedent estate. The department shall initiate collection to the maximum extent allowable by law and in accordance with the published policy on billing provided to each veteran upon admission.

(c) A veteran may make advanced payments in any amounts.

(1) Any advanced payment by the veteran shall be credited to the account of the veteran.

(2) Advanced payments shall be refunded to the veteran to the extent that the payments exceed any incurred liabilities based on services rendered.

(3) Advanced payments shall be refunded to the estate of a deceased veteran to the extent that the payments exceed any incurred liabilities based on services rendered, minus any expense the Department may incur to inter the decedent as may be allowed by a probate court or a pre-burial funeral contract.

(d) The Department, in its discretion, may decline to readmit a veteran whose account was not in good standing at the time of his most recent discharge. The Department may treat the veteran's account as an account not in good standing following such a readmission, unless the veteran has paid the amount due and owed in full, and any amount due and owed before the most recent discharge shall be included on the veteran invoice and monthly billing statement, if not paid in full prior to the readmission.

(e) In the event a veteran dies owing any money for services rendered, the full amount, including any delinquent Accounts Receivable and current or past due amounts, shall be subject to recovery in accordance with Section 27-102I(d)-272 of the Regulations of Connecticut State Agencies.

(f) In the event a veteran's account is deemed as "not in good standing" due to a past due amount, the Commissioner may reduce the veteran's personal needs allowance in determining the veteran's ability to pay and increase the minimum payment due until such past due amount is reduced to zero, unless the veteran is otherwise entitled to receive such an allowance.

(g) In the event that a veteran's account is deemed as "not in good standing", the Commissioner or his designee may take appropriate disciplinary action up to and including involuntarily assignment of income or involuntary discharge.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-256. When the ability to pay is determined and redetermined

(a) Within thirty (30) days after being admitted to any program administered by the Department of Veterans' Affairs, the Commissioner or his designee shall determine the veteran's ability to pay.

(1) The ability to pay shall be redetermined from time to time as the Commissioner may determine.

(2) The Chief Fiscal Officer may investigate any change of circumstance in a veteran's ability to pay based on information that a veteran's income or assets, both real or potential, have increased or decreased.

(3) A veteran subject to an investigation under subdivision (2) of this subsection shall:

- (A) Confirm or deny the information as presented by the Chief Fiscal Officer,
- (B) Provide an accurate statement of the current status of his income and assets, and
- (C) Cooperate with the Chief Fiscal Officer or designee in the investigation and subsequent actions to make any such income or resource available.

(b) The ability to pay may be redetermined at any time upon a change in circumstances related to the veteran's ability to pay. A redetermination may be requested by the veteran at any time, subject to the Commissioner finding reasonable grounds to grant such.

(1) The veteran shall be required to give immediate notice to the Department of reductions or increases of income or assets, including but not limited to, inheritance, gambling, or other lump sum payments, or U.S. Department of Veterans Affairs benefits, pensions, insurance proceeds, and Social Security.

(2) Upon application from a veteran, the Commissioner may reduce the veteran's ability to pay, therefore deferring immediate payment but not reducing overall liability.

(c) The determination of the ability to pay shall yield a monthly amount that is the minimum payment due now up to the total amount of the veterans' liability for all services rendered by the Department.

(1) The Commissioner shall not demand payment of the amount of the fee for services rendered that exceeds the minimum payment due now in any month, but shall maintain a delinquent Accounts Receivable for future collection.

(2) In the event a veteran has become eligible for payment under the Medicaid program and resides in a setting that qualifies for participation in that program, the receipt of the veteran's applied income, reimbursements received on behalf of the veteran, and the Medicaid payment shall constitute payment in full of services rendered.

(A) No additional delinquent Accounts Receivable shall accrue against the veteran's account for services that shall be covered by participation in the Medicaid program.

(B) If eligibility is granted retroactively, the date of Medicaid eligibility shall be used when adjusting the delinquent Accounts Receivable.

(C) Becoming eligible for Medicaid shall not affect any recovery against the estate of a deceased veteran as may be allowed by the Department of Social Services or the Department of Veteran's Affairs or any other state agency.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-257. How the ability to pay is determined

(a) In accordance with Section 27-102I(d)-250 of the Regulations of Connecticut State Agencies, the veteran and any other person as described in Section 27-102I(d)-250 of the Regulations of Connecticut State Agencies, as a condition of admission or continued participation of the veteran, to cooperate with the Department and provide such information as is necessary for the Department to determine the veteran's ability to pay.

(b) A veteran's ability to pay is determined by combining all of his assets and his total monthly income, from all sources, and comparing the combined amount with the charge for his care, as determined by the Department pursuant to Section 27-102I(d)-258.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-258. Determination of charges

(a) For any program administered by the Department of Veterans' Affairs, the per diem charge or fee shall be inclusive of all services provided to the veteran in that program on that day, unless that service is billed separately as declared by the Commissioner each year when publishing the various rates for each program. The applicable per diem fee depends upon whether the veteran resides in the Health Care Facility or in the Residential Facility.

(b) The daily charge for Health Care Facility residents, who have been determined to be eligible to participate in the Medicaid program, shall be equal to the Title XIX Medicaid rate that is set annually by the Department of Social Services for purposes of administering the Medicaid program. Residents are charged monthly based upon the applicable daily charge and the number of days in the month. The resident is obligated to contribute his monthly applied income toward the applicable charge, with the balance of the monthly charge being accepted by the Facility in the form of payment from the Medicaid program. The resident's applied income for purposes of this subsection shall be equal to his total monthly income from all sources minus any deductions that are allowed by the Department of Social Services for purposes of determining the patient's liability to contribute his income towards the cost of care, including but not limited to, the monthly personal needs allowance that is allowed by said Department, minus an additional ninety dollars per month that is allowed by the Facility as a veteran allowance. In accordance with the provisions of 38 U.S.C. § 1741(e), per diem allowances that are paid by the United States Department of Veterans Affairs are not counted as income to the resident and are not counted as a third party payment that reduces the Medicaid payment amount.

(c) The daily charge for Health Care Facility residents, who have not been determined Medicaid eligible to participate in the Medicaid program, shall be equal to the daily per capita cost of providing care at the Health Care Facility, as determined by the State Comptroller annually. Residents shall be charged monthly based upon the applicable daily charge and the number of days in the month. Per diem allowances that are paid by the United States Department of Veterans Affairs on behalf of the veteran shall be applied towards the charge to the resident.

(d) Residential Facility residents shall pay a monthly charge which is equal to the amount of the per diem allowances that are paid in the month on behalf of the resident by the United States Department of Veterans Affairs pursuant to 38 U.S.C. § 1741, plus an additional amount that the veteran is required to pay from his other own resources, which additional amount shall be set by the Facility, approved by the Board of Trustees of the Veterans' Home, and published by the Department in its Veteran Handbook.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-259. Third party benefits

(a) The Department may execute and maintain agreements with other public agencies and private entities to participate in reimbursement programs, including but not limited to Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act and the United States Department of Veterans' Affairs.

(b) Each veteran, who the Commissioner determines may be eligible for reimbursements from a third party insurer or governmental program, is obligated to provide necessary information and fully cooperate with the Department in the application for and maintenance of such income, reimbursement or benefit. Failure to comply with this subsection shall be grounds for involuntary assignment of income and assets or involuntary discharge.

(c) For any program administered by the Department of Veterans' Affairs for which the Department is a Medicaid provider, and for the purposes of determining order of liability, the state Department of Social Services, through the Medicaid program, shall be "payor of last resort" and all other payment sources shall be exhausted before any bill is presented to the Department of Social Services.

(d) For any program administered by the Department of Veterans' Affairs for which the Department is a Medicaid provider, and in the event that a portion of the regulations of Connecticut state agencies is in conflict with the Department of Social Services' Uniform Policy Manual, as amended from time to time, the Department of Social Services regulation shall prevail.

(e) The veteran shall, or shall cause his representative to, promptly file and claim income, assets and reimbursement due, and owed, or available to the veteran for payment of or reimbursement of expenditures made on his behalf or which may be claimed for services rendered to him. Sources covered by this subsection include, but shall be not limited to private insurance, a trust or any other arrangement under which the veteran is or could be a beneficiary, whether specifically named or not.

(f) The veteran shall cooperate in any action, including making application, or preceding that can or may be brought for the purpose of making the veteran's income, asset or reimbursement available to meet the costs of his care. In the event that the veteran refuses or fails to cooperate in such efforts, the Commissioner may:

(1) Apply for a conservatorship to accomplish these tasks;

(2) Consider the failure to comply with the regulations of Connecticut state agencies as a ground for involuntary assignment of the same, or

(3) Initiate a proceeding for involuntary discharge.

(Effective January 19, 1996)

Sec. 27-102I(d)-260. Application of credits

All payments made by or on behalf of a veteran shall be applied directly against the veteran's account as a credit in the following sequence:

(a) Minimum Payment Due Now, with the excess applied to,

(b) Amounts Past Due, with the excess applied to,

(c) Delinquent Accounts Receivable, with the excess applied to,

(d) Veteran's Account, provided that the total amount of the credit is a value less than 90 days of care at the applicable per diem fee, with the excess,

(e) Reimbursed to the Veteran, unless the veteran requests the Department retain funds for the payment of future liability as an advance payment in accordance with subsection (d) in Section 27-102I(d)-255 of the Regulations of Connecticut State Agencies.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-261. Timely payments

(a) The veteran shall pay in full the minimum payment due upon receipt of a Statement of Account.

(b) Any portion of the minimum payment due remaining unpaid after twenty (20) days of presentation of the Statement of Account to the veteran, or his personal representative, shall become past due.

(c) Any account with an amount past due shall be deemed as an account "not in good standing," unless the veteran or his personal representative can demonstrate to the Commissioner that circumstances beyond the control of the veteran or his personal representative led to the amount past due.

(Effective January 19, 1996)

Secs. 27-102I(d)-262—27-102I(d)-269. Reserved**PART C****Personal Representatives****Sec. 27-102I(d)-270. Establishment and termination of personal representatives**

(a) A veteran who is able to manage his own financial affairs is free to do so and the Department shall not interfere except as provided under this section. A rebuttable presumption exists in favor of the veteran's ability to do so.

(b) In the event the Commissioner determines, based on the recommendation of medical or programmatic staff familiar with the veteran's needs, that a veteran may not have the ability to manage his personal financial affairs, he may apply to a court of competent jurisdiction for the appointment of a conservator of the estate, so long as the veteran or another party has not already made such an application.

(c) The following personal behaviors may be indicators of the lack of ability to manage personal affairs:

- (1) Inability to recall expenditures.
- (2) Inability to maintain account in good standing.
- (3) Making large loans without collateral.
- (4) Purchases of illegal goods.
- (5) Inability to recognize value of money.
- (6) Other conduct as determined by the Department not to be in the best interest of the veteran's welfare and health.

(Effective January 19, 1996)

Sec. 27-102I(d)-271. Duties of personal representatives

(a) It shall be the duty of each personal representative of a veteran participating in any program administered by the Department of Veterans' Affairs to register with the Commissioner on a form provided by the Department.

(b) Each personal representative shall notify the Commissioner, in writing, of any change of address or other pertinent information or the termination of the representation.

(c) Each personal representative shall assist the Department in the filing for all third party revenues that the Department has identified as potential sources of income and or payment which reimburse the Department and which reduces or satisfies the minimum payment due now, past due amount, and or delinquent Accounts Receivable, or any portions thereof.

(d) In the event that the Commissioner becomes aware of any irregularities in the conduct of a personal representative, notification to an appropriate party, including but not limited to the veteran and the Probate Court, shall be made as appropriate to the best interest of the veteran.

(Effective January 19, 1996; amended October 11, 2007)

PART D**Accounts of Deceased Veterans****Sec. 27-102I(d)-272. Claims against estates**

(a) Upon the death of a veteran owing any amount past due or a delinquent Accounts Receivable, the Commissioner may file a claim against such veteran's

estate for payment of the full amount of the veteran's delinquent Accounts Receivable.

(b) Upon the death of a veteran having a delinquent Accounts Receivable, the Commissioner, may enter into a written agreement with a spouse and/or other dependent person(s) at the time of the veteran's death for life occupancy and use of the deceased veteran's residence so long as the veteran or the administrator of the estate show evidence of placing a lien in favor of the Department against such property for the amount of the deceased veteran's delinquent Accounts Receivable at the time of such filing and an assurance that no further encumbrances shall be placed against said property by the occupants.

(c) Upon the conclusion of the tenancy described in subsection (b) of this section, the Commissioner shall seek payment for the veteran's delinquent Accounts Receivable against the real property subject to the lien.

(d) Any asset that passes outside the estate of the deceased veteran may be subject to recovery to the fullest extent of the law, if estate is not sufficient to make a payment in full for any reason.

(Effective January 19, 1996; amended October 11, 2007)

PART E

Accounts Not In Good Standing

Sec. 27-102I(d)-273. Assignment of income and assets

(a) A veteran may assign income or assets to the Department and may do so voluntarily under an agreement with the Commissioner or involuntarily under an order by the Department.

(b) As to voluntary and involuntary assignments, the Commissioner or his designee, shall:

(1) Apply as credits to the veteran's accounts such income and assets as specified in Section 27-102I(d)-260 of the regulations of Connecticut state agencies.

(2) Distribute all personal allowances to the veteran, in a timely manner and in the manner the veteran or his personal representative requests.

(3) Make available to the veteran or his personal representative an accounting of transactions for inspection at mutually convenient times.

(4) Provide an accounting not less than annually.

(Effective January 19, 1996)

Sec. 27-102I(d)-274. Involuntary assignments of income

(a) The Chief Fiscal Officer, with the approval of the Commissioner, may order a veteran to involuntarily assign income from whatever source to the Department pursuant to Section 27-108 of the Connecticut General Statutes.

(b) The Chief Fiscal Officer shall petition the Commissioner for approval of an involuntary assignment and provide a copy of the petition to the veteran and his personal representative, if known.

(1) The petition shall state:

(A) The legal authority under which the petition is filed.

(B) The alleged facts upon which Chief Fiscal Officer relied in ordering assignment, including a review of the recent history of the veteran's account and amounts unpaid and past due.

(C) Terms and conditions under which the account at issue may be made current and thereby avoid the pending assignment.

(D) The specific income to be assigned.

(E) The right of a veteran to administrative hearing as provided in subsection (d) of Section 27-108 of the Connecticut General Statutes and how to perfect or exercise that right.

(2) If requested within ten (10) days of receipt of the notice, the veteran shall be provided an opportunity for a hearing.

(A) A hearing under this subsection shall be considered a contested case as set forth in Section 4-166 of the Connecticut General Statutes and the rules of practice of the agency.

(i) A written or verbal request for a hearing shall be made to the Commissioner, or designee, Chief Fiscal Officer, Health Care Facility Administrator, or the Director of the Residential Facility.

(ii) If the notice is hand carried to the veteran, the veteran may make his request to the person making the delivery at the time of the delivery.

(iii) The person who receives a request shall reduce it to writing, if necessary, and direct the request to the Commissioner.

(B) The Commissioner, or his designee, shall hold a hearing within thirty (30) days of receiving a request.

(c) If following the opportunity for a hearing, the Commissioner approves the assignment, the veteran shall have thirty (30) days to comply with the order.

(1) The Chief Fiscal Officer shall assist the veteran to implement the order.

(2) The failure of the veteran or his personal representative to satisfy such an order is grounds for an involuntary discharge of the veteran.

(d) A veteran or his personal representative may apply to the Commissioner to terminate an involuntary assignment without restriction, except that a second request within six (6) months may be granted only upon a showing during an informal conference of a changed circumstance. The Commissioner may terminate an involuntary assignment if:

(1) The account is current, meaning no amount owed to the agency is unpaid and past due, and

(2) The veteran demonstrates to the satisfaction of the Commissioner a reasonable likelihood of more prudent financial management in the future.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-275. Voluntary assignment

(a) A veteran or his personal representative may request the Commissioner receive a voluntary assignment of income and assets.

(b) Any voluntary agreement for assignment of any income or assets shall be reduced to writing and be signed by the veteran or his personal representative and the Commissioner, or his designee.

(c) The Commissioner may agree to assignment of estates not exceeding \$20,000 in assets at the time of such agreement and shall petition the probate court for appointment of a conservator if and when an estate subject to such an agreement reaches \$25,000.

(Effective January 19, 1996)

PART F

Desk Review, Informal Conference and Fair Hearing

Sec. 27-102I(d)-276. Desk review and informal conference

(a) Except as otherwise provided by this section, a veteran who disagrees with an agency decision pertaining to payment or billing for services rendered may

petition for a desk review or an informal conference with the Chief of Fiscal and Administrative Services which shall be completed within ten (10) days.

(b) If after an informal conference held pursuant to subsection (a) of this section, the veteran continues to disagree, he may, within ten (10) days of the Chief Fiscal Officer's decision:

- (1) Petition the Commissioner for a desk review by the Commissioner,
- (2) Request an informal conference with the Commissioner, or
- (3) Request a fair hearing in the case of an involuntary assignment.

(c) After a desk review or informal conference by the Commissioner, the Commissioner's decision is final and not subject to further review, except as provided in Section 27-102I(d)-277 of the regulations of Connecticut state agencies.

(Effective January 19, 1996)

Sec. 27-102I(d)-277. Hearings

(a) A final agency decision under Section 27-102I(d)-276 shall not be appealed or subject to judicial review, except as provided in of the regulations of Connecticut state agencies in subsection (b) of that section.

(b) After a hearing on an involuntary assignment, the Commissioner's decision, or that of his designee if empowered by the Commissioner to make such a decision, is final, but may be subject to judicial review pursuant to Section 4-183 of the general statutes.

(Effective January 19, 1996)

Secs. 27-102I(d)-278—27-102I(d)-299. Reserved

ARTICLE VII

NON RESIDENTIAL SERVICES

PART A

Advocacy and Assistance

Sec. 27-102I(d)-300. Office of advocacy and assistance

(a) The Department shall maintain and staff an advocacy and assistance unit which shall be known as the Office of Advocacy and Assistance (OAA).

(b) Pursuant to Section 4-8 and subsection (b) of Section 27-102I of the Regulations of Connecticut State Agencies, the Commissioner shall appoint a Director to administer the Office of Advocacy and Assistance, including supervising Service Officers and clerical personnel as may be assigned to the unit.

(c) Within appropriations, the unit may maintain one or more offices in each congressional district in Connecticut and assign at least one Service Officer to each such district. The Director may assign cases from more than one district to a Service Officer based on special needs of such cases or work loads.

(d) The Director shall ensure that each Service Officer completes a course, approved by him, in veteran's benefits within one year of commencement of employment.

(1) The course shall cover benefits available to a veteran under Title 38 of the United States Code.

(2) The course may cover benefits under Titles 5, 7, 10a, 12, 14, 21 and 27 of the Connecticut General Statutes and if the course may not, the Director shall cause these topics to be covered by requiring attendance at an in-service training provided by the Department on the same.

(3) If no approved course is available within the eleven months of commencement of employment, the Director may cause such a course to be offered and order one or more Service Officers to attend.

(4) Within appropriations, the Director may order a refresher course at his discretion for any Service Officer.

(5) If a Service Officer completed comparable training within five years prior to the commencement of employment as a service worker, the Director may accept documentation of successful completion in lieu of the requirement in subdivision 1 of this subsection.

(e) The veteran or dependent, if applicable, shall have the burden to produce or to secure copies of documentation necessary for a Service Officer to assist or advocate a benefit or a claim.

(f) A Service Officer may petition the Director not to serve a particular request from a veteran or a dependent if the veteran or dependent files a frivolous or fruitless request for assistance or advocacy.

(1) The petition shall specify:

(A) The benefit sought.

(B) The criteria for the benefit sought.

(C) The criteria which the applicant cannot or may not satisfy.

(D) The facts upon which the Service Officer is relying.

(E) A description of the efforts of the Service Officer to verify with the provider or the Benefit Administrator as to the futility of the pending claim, even if only preliminary assessment.

(2) Notice of the petition shall be given to the applicant.

(3) The Director, or his designee, may take additional information from the applicant and may hold an informal conference on the petition.

(4) The Director may grant or deny the petition.

(A) If the petition is denied, the Service Officer shall assist and advocate for the applicant without restriction.

(B) If the petition is granted, the Director shall advise the applicant and give notice that the applicant may request a review of the decision by the Commissioner.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-301. Definitions

The following definitions shall apply sections 27-102I(d)-302 through 27-102I(d)-319 of the regulations of Connecticut state agencies, for the Office Of Advocacy and Assistance and the activities therein.

(a) "Applicant" means the person who initiated the Department's involvement.

(b) "Benefit" means any payment, service, commodity, function, status, or waiver which may be available to a veteran in part or in full because the beneficiary is or was a veteran or a dependent.

(c) "Child" means any child for whom the veteran admits paternity or legally adopted and is under 18 years of age, or a full time student for whom the veteran took a deduction on his most recent federal income tax filing.

(d) "Claim means" an application made by or on behalf of a veteran of a dependent for a benefit which has not yet been accepted or finally rejected by the party who may confer that benefit on the veteran or a dependent, including appeals from adverse intermediary decision makers.

(e) "Dependent" means a spouse, child, or parent of an eligible veteran.

(f) "Parent" means a biological mother or father, regardless of marital status at the time of birth or application for benefit, and any person who has legally adopted the veteran.

(g) "Widow" and "widower" means a surviving spouse of a valid marriage, as determined by the law of the place where such a marriage was made and at the time of the death, to a veteran as defined in Section 27-103 of the Connecticut General Statutes.

(Effective January 19, 1996)

Sec. 27-102I(d)-302. Application for services

(a) A veteran seeking advocacy and assistance shall file an application which:

(1) Describes his military service and discharge status in sufficient detail as to permit a Service Officer to determine of technical eligibility as defined in Section 27-102I(d)-100 of the regulations of Connecticut state agencies, and

(2) Describes the veteran's need for advocacy or assistance in general terms or as to a specific benefit in sufficient detail as to permit a Service Officer to determine that need is within the criteria set forth in Sections 27-102I(d)-303 and 304 of the regulations of Connecticut state agencies.

(b) A Service Officer may take an application from any person verbally, in person or over the telephone, and thereafter reduce the application to writing.

(c) If an application is made by someone other than the veteran himself or herself, the Service Officer shall attempt to secure the veteran's consent prior to undertaking the request, unless the benefit is exclusively for the applicant, e.g. a dependent or spouse who seeks a benefit to which they may be entitled in their own right.

(d) If an application is technically denied as defined in Section 27-102I(d)-100 of the regulations of Connecticut state agencies, the Service Officer shall inform the applicant in writing and state the basis of the denial.

(1) The denial shall advise the applicant of the availability of a desk review.

(2) Within appropriations, the notice may refer the applicant to another entity or service provider.

(Effective January 19, 1996)

Sec. 27-102I(d)-303. Assistance

(a) Service Officers may engage in one or more of the following assistance activities upon the request of an applicant or their dependents.

(1) Inform veterans and dependents about benefits and services under federal, state or local programs or services for which a veteran or his dependents may be eligible.

(2) Aid and advise veterans or dependents in preparing, submitting and presenting claims for veterans benefits and services from federal, state, or local governments and private groups.

(3) Arrange or provide travel assistance to officers for appointments and contacts with various benefit providers.

(4) Prepare claim forms for veterans benefits.

(5) Submit claim forms after the applicant signs.

(b) Service Officers may decline to take any action set forth in subsection (a) of this section, if:

(1) The veteran has previously requested the same action and failed to cooperate in resolution of the request, and

(2) The Service Officer filed a petition under subsection (f) of Section 27-102I(d)-300 of the regulations of Connecticut state agencies, which was granted.

(Effective January 19, 1996)

Sec. 27-102I(d)-304. Advocacy

(a) To the extent allowed by federal and state law, a Service Officer may advocate for veterans and their dependents in one or more of the following ways:

(1) Address community, civic, and veteran organizations on the needs of the veteran population, and available benefits, services, activities, and programs to which veterans and their dependents may be entitled or eligible to receive.

(2) Respond to requests from federal and state elected officials for input on legislation affecting or that may affect veterans' benefits.

(3) Visit nursing homes to assess the treatment being given to veterans and their dependents and to ensure that they shall be receiving maximum benefits.

(4) Investigate, in cooperation with appropriate authorities as may be appropriate, any complaints about the treatment of veterans, their spouses, dependents and family members receiving services under Chapter 506 of the Connecticut General Statutes.

(5) Visit homeless shelters, soup kitchens, and local welfare agencies for the purpose of identifying veterans who may benefit from residential and non-residential services, activities, and programs.

(6) Accompany an applicant or claimant to meetings and hearings necessary to process or appeal benefit claims or applications, including for residential programs for the Department.

(7) Assemble evidence and documentation, including written analysis of eligibility determinations and explanations of the veteran's circumstances, as may be requested by or relevant to the party processing the application.

(8) Prepare bulletins and public information materials for public education and outreach.

(9) Obtain the appointment as a representative of a veteran under a Power of Attorney recognized by the U.S. Department of Veterans Affairs for the purpose of perfecting veteran's claims for benefits before the Board of Veterans' Appeals, informal conference or formal hearing held by the Commissioner of the Department of Veterans' Affairs, or designee, and any other unit of the federal, state, or local government charged with the administration of veterans' benefits.

(10) Other duties the Director may assign to improve the quality of life of veterans and their dependents.

(b) Service Officers may decline to take any action set forth in subsection (a) of this section, if:

(1) The veteran has previously requested the same action and failed to cooperate in resolution of the request, and

(2) The Service Officer filed a petition under subsection (f) of Section 27-102I(d)-300 of the Regulations of Connecticut State Agencies.

(Effective January 19, 1996; amended October 11, 2007)

Secs. 27-102I(d)-305—27-102I-319. Reserved**PART B****Veterans Cemeteries****Sec. 27-102I(d)-320. State cemeteries for veterans**

(a) The Department of Veterans' Affairs shall operate three state veterans' cemeteries:

(1) The State Veterans' Cemetery in Darien, in which there may be no available burial plots.

(2) The Colonel Gates Cemetery in Rocky Hill.

(3) The State Veterans' Cemetery in Middletown, which is available for deceased veterans found eligible under Section 27-122b of the, General Statutes as may be amended from time to time.

(b) The Chief Fiscal Officer shall administer this program.

(c) State veterans' cemeteries shall be open for grave site visitation and funerals during daylight hours. Access for any other activities and at other times is strictly prohibited.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-321. Definitions

The following definitions shall apply to Section 27-102I(d)-322 through 27-102I(d)-339 of the regulations of Connecticut state agencies activities related to interment in a state cemetery.

(a) "Honorable Service" or "Under Honorable Conditions" is character of service as listed on DD-214 (Enlisted Record and Report of Separation) or separation papers (generic term). This term may not include "General-Other Than Honorable" and "Bad Conduct" discharges.

(b) "Resident" means a legal resident of the State of Connecticut either at the time of death or at the time of induction into the armed forces. Proof of residence shall include:

- (1) Address listed on the DD-214,
- (2) Separation papers issued by the a branch of armed forces,
- (3) Copy of a death certificate, and
- (4) A declaration by next of kin.

(c) "Technical Approval" means upon review the veteran has been determined to meet the following:

(1) Definition of veteran under Section 27-122b of the Connecticut General Statutes,

(2) Honorable or under honorable conditions discharge, and

(3) Was a resident of the State of Connecticut at the time of death or at the time of entering the armed forces.

(d) "Technical Denial" means upon review the veteran has failed to show proof of meeting one or more of the requirements necessary for a technical approval.

(e) "Desk Review" means a review by the Chief Fiscal Officer of the decision by personnel and the application forms with written proofs as submitted by applicant.

(f) "Administrative Approval" means the veteran is technically eligible, the applicant is deceased, and the arrangements for interment have been approved, including plot assignment.

(g) "Administrative Denial" means a determination by the Department that the application for interment may not satisfy at least one requirement for an administrative approval.

(Effective January 19, 1996)

Sec. 27-102I(d)-322. Application for interment

(a) An application for interment may be submitted before or after the death of the veteran or his or her spouse.

(1) Application for interment may be made by a veteran, any family member, or a personal representative.

(2) The Commissioner may make application for burial for any veteran who dies while in residence in a departmental residential program, if necessary.

(b) Applications for burial shall be sent to the Department of Veterans' Affairs, 287 West Street, Rocky Hill Connecticut 06067.

(c) Verbal requests may also be made and applications submitted thereafter in a timely manner.

(d) The Chief Fiscal Officer may waive the application requirement for any veteran previously admitted to the Home upon certification of residency in Connecticut, if necessary for eligibility, and may grant administrative approval without further processing.

(e) Technical eligibility shall be determined at the time of application and need not be re-determined at the time of death, except as to any residency requirement, if not a resident at the time of induction.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-323. Order of interment and plot assignment

(a) Order of interment shall be based on date of death, except that the Commissioner shall consider the desire of the families in scheduling funerals, services, and interments.

(b) Plot assignment shall be in the sole discretion of the Commissioner.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-324. Cost of interment

(a) The Department shall open and close the grave in the state cemetery.

(b) The decedent's family and/or estate shall assume all other costs related to the interment, including funeral expenses.

(c) In the event of no other recourse, the Department may pay for the costs of interment and the funeral, and recover such expenses from the estate of the veteran, if any and as may be allowed by law.

(d) If for any reason a veteran or a decedent's family desires to exhume and relocate the body of a deceased spouse or veteran, the party so requesting shall bear any and all expenses associated with honoring the request, including the cost of any permits required by any governmental agency.

(Effective January 19, 1996)

Sec. 27-102I(d)-325. Headstone and markers in state cemeteries for veterans

(a) Only headstones and markers as provided by the federal government and approved by the Commissioner shall be permitted in the state cemeteries for veterans.

(b) The Commissioner shall seek recovery of any expense incurred by the state for removal of a headstone or marker not in compliance with subsection (a) of this section from the person or persons who ordered the installation, if known.

(Effective January 19, 1996)

Sec. 27-102I(d)-326. Interment of a spouse

(a) Each veteran who applies for interment and who is entitled to interment in his or her own right may also apply for interment of a spouse.

(b) Application for a double vault burial shall be made prior to the first interment.

(c) If application is not made in compliance with subsection (b), an application shall be submitted to the Commissioner and any expense attributed to removing the single vault and installing a double vault shall be the responsibility of the family.

(Effective January 19, 1996)

Secs. 27-102I(d)-327—27-102I(d)-339. Reserved

PART C

Headstones in Private and State Cemeteries

Sec. 27-102I(d)-340. Veterans headstones in private and state cemeteries

(a) Pursuant to Section 27-119 of the Connecticut General Statutes, the Commissioner shall pay for the installation of headstones provided by the federal government, including the cost of transportation, if none is provided, from the nearest point that the federal government provides to the grave site in any private or state owned cemetery located in Connecticut for any person who served in the military or naval forces of the English colonies in America, prior to 1776, and any veteran as defined in Section 27-103 of the Connecticut General Statutes.

(b) The Chief Fiscal Officer shall administer the program and make recommendations for payment to the Commissioner.

(c) The Commissioner shall authorize that the State Comptroller make such payments only upon application and upon his approval.

(Effective January 19, 1996)

Sec. 27-102I(d)-341. Application for payment

(a) A person seeking payment for installation of a headstone shall file an application which:

(1) Is substantially complete,

(2) Satisfies the technical eligibility requirements as set forth in 38 USC § 2306, and

(3) Identifies the cemetery, including plot location, or grave site in detail sufficient to determine where the headstone is to be or was installed, and

(4) Includes the name and telephone number of the cemetery caretaker or administrator, if any, and

(5) Describes the current marker, if any, or includes an affidavit that the grave site is unmarked.

(b) Payment shall be denied for any grave that is marked or for which the state did not install a bronze marker.

(c) If the application is for reimbursement for expenses incurred by a person, proof of expenditures is required.

(Effective January 19, 1996; amended October 11, 2007)

Sec. 27-102I(d)-342. Technical approval

Based on the information in the application and already on file with the Department, the Chief Fiscal Officer may find an applicant technically eligible for payment and recommend that the Commissioner authorize payment by the State Comptroller.

(Effective January 19, 1996)

Sec. 27-102I(d)-343. Technical denial

If the Chief Fiscal Officer denies the application, he shall provide written notice to the applicant which shall include:

(a) The facts upon which the decision was based, and

(b) The availability of a desk review by the Commissioner and how to request one.

(Effective January 19, 1996)

PART D

Desk Review

Sec. 27-102I(d)-344. Desk review

(a) An applicant for assistance, advocacy, interment, or payment for installation of headstones who disagrees with the agency's decision may petition the Commissioner for a desk review.

(b) The Commissioner may deny or grant a desk review and may thereafter, if granted, modify, reverse, or affirm the decision rendered.

(Effective January 19, 1996)