

 <p style="text-align: center;">POLICIES AND PROCEDURES</p> <p style="text-align: center;">State of Tennessee Department of Intellectual and Developmental Disabilities</p>	Policy #: 80.2.4	Page 1 of 5
	Effective Date: February 27, 2017	
	Distribution: B	
Policy Type: Administrative	Supersedes: 80.2.4 (5/15/13, 6/13/14)	
Approved by:  Commissioner	Last Review or Revision: February 9, 2017	
Subject: ABUSE REGISTRY ADVISORY GROUP		

- I. **AUTHORITY:** Tennessee Code Annotated (T.C.A.) §§ 68-11-1001, 68-11-1003, 33-1-302, 33-1-303, and 47-10-107.
- II. **PURPOSE:** To establish a process, pursuant to T.C.A. § 68-11-1003(g)(1)(B), for consideration of applications for removal of an individual's name from the Abuse Registry maintained by the Tennessee Department of Health.
- III. **APPLICATION:** This policy applies to employees of the Department of Intellectual and Developmental Disabilities (hereinafter "DIDD"), members of the Abuse Registry Advisory Group (hereinafter "Advisory Group"), and any individual whose name was originally placed on the Abuse Registry at the request of DIDD and who now seeks to have his or her name removed from the Abuse Registry.
- IV. **DEFINITIONS:**
 - A. **Abuse Registry or Registry** shall mean the registry of persons who have committed acts of abuse, neglect, and exploitation or misappropriation against vulnerable persons. The Registry was established and is maintained by the Department of Health pursuant to T.C.A. § 68-11-1001, *et seq.*
 - B. **Abuse Registry Advisory Group** shall mean the group established by this policy to consider applications submitted to DIDD by individuals for removal from the Abuse Registry.
 - C. **Commissioner** shall mean the Commissioner of DIDD or his or her designee.
- V. **POLICY:** DIDD shall establish and maintain an Abuse Registry Advisory Group. The Advisory Group shall consider those applications for removal of an individual's name from the Abuse Registry that meet the criteria for review set forth in this policy and make recommendations to the Commissioner.
- VI. **PROCEDURES:**
 - A. Abuse Registry Advisory Group members shall be experienced in the subject matters of DIDD's operations and/or otherwise qualified by education and experience to make recommendations to the Commissioner.
 1. The voting members of the Advisory Group shall consist of seven (7) persons appointed by the Commissioner.
 2. The following DIDD officers (or their designees) and outside entities shall comprise the membership of the group:

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- a. DIDD Director of Nursing;
 - b. DIDD Director of Behavior and Psychological Services;
 - c. DIDD Director of Risk Management and Licensure;
 - d. DIDD Deputy Director of Program Operations;
 - e. One (1) designated representative from a DIDD-contracted provider of services; and
 - f. Two (2) members of the community who are neither affiliated with DIDD nor a provider of services and supports funded by DIDD.
3. The Commissioner shall appoint one member to serve as the Advisory Group chairperson. The chairperson shall cast a vote only in the event of a tie. The Commissioner shall also appoint a member of the Advisory Group to serve as vice-chairperson, who shall chair the meeting in the event the chairperson is absent
- B. Advisory Group Meetings
1. The Advisory Group shall meet when necessary to conduct business before it. The chairperson shall set the meeting date and time and provide reasonable advance notice to the members.
 2. A quorum shall consist of five (5) members in attendance.
 3. Members shall be present at the meeting to cast a vote.
 4. Not less than ten (10) business days prior to the scheduled meeting, the chairperson shall forward to Advisory Group members the application(s) to be considered and all documentation submitted in support of the applications(s).
 5. The Advisory Group shall keep minutes of its meetings which shall reflect its recommendation(s) and the substances of its deliberations. Documents considered shall be clearly identified in the minutes.
 6. An Advisory Group meeting is not an adversarial or fact-finding proceeding. Attendance is limited to Advisory Group members.
- C. Application for Removal from the Abuse Registry
1. To be eligible for consideration, an application for removal from the Abuse Registry must satisfy the following requirements:
 - a. The applicant's name must have been originally placed on the Abuse Registry at the request of DIDD or by the Order of an Administrative Law Judge in a proceeding instituted by DIDD.
 - b. A period of at least three (3) years shall have expired from the date of placement on the Abuse Registry to the time the application for removal is submitted. If the applicant has previously submitted an application for removal that was denied, then a period of at least twelve (12) months

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from the date of the final decision shall have expired before another application and supporting documentation may be submitted for consideration.

- c. The Application for Removal from the Abuse Registry form shall be completed with supporting documentation attached thereto and submitted via certified U.S. Mail to the following address:

Chairperson, Abuse Registry Advisory Group
ATTN: OFFICE OF GENERAL COUNSEL
TN Department of Intellectual and Developmental Disabilities
Citizens Plaza State Office Building, 10th Floor
400 Deaderick Street
Nashville, Tennessee 37243

- d. The applicant shall provide a detailed written statement which includes a description of the facts and circumstances that have occurred since placement on the Registry that he or she contends justify removal from the Abuse Registry.
- e. The applicant shall provide a complete employment history since date of placement. The employers' names, addresses and telephone numbers shall be included.
- f. The applicant shall provide at least three (3) letters of reference from sources acceptable to the group indicating awareness on the part of the writer that the applicant's name is on the Abuse Registry as well as the reason(s) for placement, and setting forth reasons why the writer believes removal is justified.
- g. The applicant shall sign an authorization for release of information which shall grant permission for the Advisory Group to contact references, current or former employers, or any other person or entity whose name appears in the application or supporting documents.
- h. The applicant shall arrange for a certified criminal history background check to be conducted by the Tennessee Bureau of Investigation and sent to the Chairperson of the Advisory Group. The applicant shall be responsible for any cost associated with obtaining the background check.
- i. The Advisory Group retains the right to request or obtain any other additional information it deems necessary before making a recommendation on any application for removal from the Abuse Registry.

D. Abuse Registry Advisory Group Actions and Responsibilities

- 1. Upon review of an application properly submitted for consideration, the Advisory Group shall have the following duties and responsibilities:
 - a. The Advisory Group shall determine whether additional information or documentation is needed before making a recommendation. If so, this information shall be requested in writing from the applicant. Any further action may be deferred until the requested documentation is received. The Advisory Group or its members may obtain information or request

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information from other sources if deemed necessary. Upon receipt of the additional information, the chairperson shall provide it to the members for consideration at the next scheduled meeting.

- b. In conducting its deliberations, the Advisory Group shall have access to the investigation report and court order, if applicable, that pertain to the substantiation(s) or finding(s) that resulted in placement on the Abuse Registry. The applicant shall not be permitted to challenge or relitigate those determinations.
- c. In conducting its deliberations, the Advisory Group may elect to contact references provided by the applicant which include but are not limited to current or former employers or any other person or entity whose name is provided in the application and supporting documents.
- d. The focus of the Advisory Group's review shall be consideration of post-placement facts, events and circumstances relevant to the likelihood of committing further acts or omissions that led to the person's placement on the Abuse Registry and whether, based upon evidence presented, removal of the person's name from the Registry is clearly warranted.
- e. The Advisory Group shall make a recommendation as to whether or not the applicant's name should be removed from the Abuse Registry. The recommendation is not binding on the Commissioner and does not constitute a final decision by DIDD.

2. The Advisory Group's recommendation shall be reduced to writing and conveyed by letter or memorandum to the following parties:

- a. Commissioner;
- b. DIDD Director of Protection from Harm; and
- c. DIDD Office of General Counsel.

E. Commissioner's Actions and Responsibilities

1. Upon receipt of the Advisory Group's written recommendation, the Commissioner shall have the following duties and responsibilities:

- a. The Commissioner shall make the determination, on behalf of DIDD, whether or not the applicant's name shall be removed from the Abuse Registry.
- b. The Commissioner retains the right to request or obtain additional information before making a decision on any application for removal from the Abuse Registry.
- c. The determination shall be reduced to writing in the form of a letter or memorandum which shall incorporate the Department's reasons for the decision.

2. Copies of the letter or memorandum shall be forwarded to the following parties:

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- a. The applicant or legal representative, if applicable;
 - b. DIDD Director of Protection from Harm; and
 - c. DIDD Office of General Counsel.
3. If the decision is for removal of the person's name from the Abuse Registry, the Commissioner, acting through the Office of General Counsel, shall convey the written decision to the Department of Health and request removal.

VII. **CQL STANDARDS:** None.

VIII. **REVISION HISTORY:** 5/15/13, 6/13/14, 2/9/17

IX. **TENNCARE APPROVAL:** N/A.

X. **ATTACHMENTS:**

- A. Application for Removal from Abuse Registry