§ 16.19 Confinement, care and treatment of persons with developmental disabilities.

(a) No individual who is or appears to have a developmental disability shall be detained, deprived of liberty or otherwise confined without lawful authority, or inadequately, unskillfully, cruelly or unsafely cared for or supervised by any person.

(b) If the commissioner has reason to believe that a person is being detained or given inadequate, unskillful, cruel or unsafe care, as described in subdivision (a) of this section, he shall promptly investigate the matter. If, after giving the person accused of violating subdivision (a) of this section an opportunity to be heard, he finds that a violation did occur, the commissioner shall issue an order directing that person to cease and desist from continued violation.

(c) In addition to any other remedies available under this article, the commissioner may bring an action in the supreme court to enjoin any person from unlawfully subjecting a person with a developmental disability to physical, sexual, or emotional abuse, or active, passive or self neglect, or detaining a person with a developmental disability or providing inadequate, unskillful, cruel or unsafe care or supervision for such a person.

(d) (1) If, upon receiving a report that any adult thought to have a developmental disability has been subjected to physical, sexual, or emotional abuse, or active, passive or self neglect, and the commissioner has reason to believe that such adult is known by the commissioner to have received services from providers duly authorized by the commissioner and has been subjected to such abuse or neglect, the commissioner shall intervene pursuant to this section or, if such adult has not received services from said authorized providers, the commissioner shall, immediately or as soon as practicable, notify adult protective services established pursuant to section four hundred seventy-three of the social services law. The commissioner shall, within forty-eight hours, forward copies of reports made pursuant to this subdivision to the state commission of quality of care and advocacy for persons with disabilities and indicate if such report was referred to adult protective services.

(2) In order to carry out the provisions of this subdivision, the commissioner and commissioner of the office of children and family

services shall develop a model memorandum of understanding which shall be entered into between each developmental disability services office and each local department of social services within its jurisdiction. Such agreement shall define the responsibilities of each developmental disability services office and social services district with respect to reports pursuant to paragraph one of this subdivision and reasonable time frames for implementing such responsibilities. Such agreement entered into in accord with such memorandum of understanding shall be finalized between all developmental disability services offices and all local departments of social services no later than ninety days after the effective date of this subdivision. A developmental disabilities services office shall be deemed a provider of services for the purposes of access to adult protective records under section four hundred seventy-three-e of the social services law.

(e) The commissioner shall promulgate rules and regulations requiring that when the office or a provider licensed, certified or operated by the office conducts an investigation regarding potential abuse, maltreatment or neglect of a person receiving services, any affected employee or volunteer shall be provided a copy of regulations and procedures governing such investigations and, in writing, notify the employee or volunteer subject of the investigation of the right and procedures for obtaining and responding to any report filed by the provider with the office in accordance with this section.