

# **Title 14 INDEPENDENT AGENCIES**

## **Subtitle 31 OFFICE FOR CHILDREN**

### **Chapter 06 Standards for Residential Child Care Programs**

Authority: Education Article. §§8-301-8-303 and 8-401-8-417; Family Law Article. §§5-506. 5-508.5-509. and 5-510; Health-General Article, §§2-104, 7-904.8-404. 10-922. and 10-924; Health Occupations Article. §20-302; Human Services Article. §§2-209. 2-212. 9-203. 9-204. 9-221, 9-231. 9-234. and 9-235; Annotated Code of Maryland

#### **.01 Purpose**

This chapter articulates the standards that must be met and maintained by residential child care programs for children and youth. These requirements are designed to protect the health, safety, and well being of children placed in residential child care programs.

#### **.02 Scope**

A. This chapter applies to residential child care programs licensed by the Department of Human Resources (DHR), Department of Health and Mental Hygiene (DHMH), and Department of Juvenile Services (DJS), including the following residential programs for children:

- (1) Alternative living units;
- (2) Group homes;
- (3) Nonpublic residential educational facilities;
- (4) DHMH/Community Mental Health Programs/Residential Crisis Services;
- (5) State-operated residential educational facilities; and
- (6) Therapeutic group homes.

B. Except as set forth in §C of this regulation, a person or entity shall be licensed under these regulations before operating a nonpublic residential child care program.

C. This chapter does not apply to the care of children by:

- (1) A parent or guardian of the child;
- (2) An individual related to the child by blood or marriage within five degrees of consanguinity or affinity under the civil law rule.
- (3) An individual who exercises temporary care, custody, or control over the child at the request of a parent or guardian of the child and who is not otherwise required to be licensed;

- (4) An individual with whom the child is placed in individual family care or foster care by a licensed child placement agency, a court of competent jurisdiction, or agency as defined by Regulation .03 of this chapter, and who is otherwise required to be licensed;
- (5) A youth camp subject to certification by the Department of Health and Mental Hygiene;
- (6) A facility subject to the certificate of need process under State law;
- (7) A nonpublic residential school that is not approved to serve students with disabilities under COMAR 13A.05.02.12;
- (8) A facility listed in Human Services Article, §9-226, Annotated Code of Maryland, or a residential facility operated by the Department of Juvenile Services; or
- (9) A homeless shelter.

**D. Special Licensing and Monitoring Requirements.**

(1) Special licensing and monitoring requirements that differ from or supplement the requirements of this chapter are applicable to the following:

- (a) State-operated residential educational facilities;
- (b) Secure care programs;
- (c) Wilderness programs;
- (d) Programs for medically fragile children;
- (e) Programs for children with developmental disabilities;
- (f) Shelter care programs;
- (g) Programs for adolescent girls who are pregnant;
- (h) Mother-baby programs;
- (i) Therapeutic group homes;
- (j) DHMH Community Mental Health Programs/Residential Crisis Services; and
- (k) DHMH Community Mental Health Programs/Residential Respite Care Services.

(2) Special licensing and monitoring requirements for the programs listed in §D( 1) of this regulation appear in COMAR 14.31.07 .

**.03 Definitions**

A. In this chapter, the definitions in COMAR 14.31.05 apply, and the following terms have the meanings indicated.

**B. Terms Defined**

(1) "Administration" means the licensing agency.

(2) "Behavior intervention plan" means a plan that is based on the functional behavioral assessment, designed to address challenging behaviors through the use of positive behavioral interventions, strategies, and supports, developed by a human

services professional as defined in §B( 21) of this regulation, who has training and expertise in conducting a behavior functional assessment.

(3) "Behavioral consultation" means on-site observation, assessment, and evaluation of the child within the context of the child's existing program. Behavioral consultation may include:

- (a) Recommendations regarding structure of the program;
- (b) Appropriate activities and services; or
- (c) Consultation with human services professionals.

(4) "Behavioral health" means treatment of mental illness, emotional disorders, drug abuse, or alcohol abuse.

(5) "Behavioral respite" means relief services provided by a community-based residential program that meets a child's behavioral needs.

(6) "Board" means the board of directors of a residential child care program responsible for the planning and oversight of the operation of the residential child care program.

(7) "Certified residential child and youth care practitioner" means an individual who is certified by the Maryland State Board for the Certification of Residential Child Care Program Professionals as defined in COMAR 10.57.01.02B(7).

(8) "Challenging behavior" means those behaviors exhibited by a child which are harmful, destructive, or socially unacceptable and necessitate being addressed in the child's individual plan of care and behavior intervention plan.

(9) "Chemical restraint" means the use of medication that is not the current treatment for a child's condition to control behavior or restrict the child's movement.

(10) "Chief administrator" means the individual, regardless of title, who is appointed by the Board as having responsibility for the overall administration of the organization.

(11) "Chief financial officer" means the program executive with the primary responsibility for overseeing the financial activities of the program including financial planning, budget preparation, monitoring cash-flow, record keeping, and reporting to the Board.

(12) "Children's Cabinet" means those agencies directed by Executive Order 01.01.2006.03:

- (a) To examine Maryland's system of services to children and their families; and
- (b) To facilitate ongoing improvements to this service delivery system.

(13) "Contractual and temporary staff" in this chapter are those human services professionals and direct care staff who work at the residential child care program on a contractual or temporary basis or who are placed by a staffing organization with whom the licensee has a contract to perform those duties specified in the job description.

(14) "Cordless window covering" has the meaning stated in Family Law Article, §5-505, Annotated Code of Maryland.

(15) "Custodial agency" means the agency having primary legal responsibility, which may result from an order of shelter, commitment, limited guardianship, full guardianship, or voluntary placement, time limited, for the child in placement, and may include a child with disabilities.

(16) Direct Care Staff.

(a) "Direct care staff" means staff assigned to perform direct responsibilities related to activities of daily living, self-help and socialization skills.

(b) "Direct care staff" does not include human services professionals, except when a human services professional is specifically assigned to perform the duties of direct care staff as specified in Regulation .06B( 1) of this chapter.

(17) "Emergency placement" means residential services provided to a child who requires immediate placement in a residential child care program because the child is:

(a) Abandoned;

(b) At risk of serious immediate danger; or

(c) At risk for long-term, out-of-home placement without use of placement as a short-term intervention.

(18) "Family" has the meaning stated in Human Services Article, §8-101, Annotated Code of Maryland.

(19) "Functional behavior assessment" means the systematic process of gathering information to guide the development of an effective and efficient behavior intervention plan for the problem behavior.

(20) "Group home" means a residential child care program, including:

(a) Shelter care, including:

(i) Emergency; or

(ii) Structured;

(b) Mother-baby programs;

(c) Programs for adolescent girls who are pregnant;

(d) Psychiatric respite care;

(e) Secure care;

(f) Programs for children who are medically fragile;

(g) Programs for children with developmental disabilities;

(h) Residential crisis services;

(i) Residential respite care services;

(j) Wilderness programs; and

(k) Diagnostic evaluation treatment programs.

(21) "Human services professional" means:

- (a) A social worker licensed under Health Occupations Article, Title 19, Annotated Code of Maryland;
- (b) A psychologist licensed under Health Occupations Article, Title 18, Annotated Code of Maryland;
- (c) A professional counselor certified under Health Occupations Article, Title 17, Annotated Code of Maryland;
- (d) A nurse licensed under Health Occupations Article, Title 8, Annotated Code of Maryland;
- (e) A psychiatrist licensed under Health Occupations Article, Title 14, Annotated Code of Maryland;
- (f) A guidance counselor certified under COMAR 13A.12.03.02 or a school psychologist certified under COMAR 13A.12.03.10;
- (g) A certified counselor meeting the requirements under COMAR 10.58.07 to practice alcohol or drug counseling; or
- (h) For programs serving children with developmental disabilities, an individual with a bachelor's degree in a human services field who has a minimum of 1 year of full-time experience working directly with persons with developmental disabilities.

(22) "Individual plan of care" means an individualized written plan as detailed in Regulation .17C of this chapter.

(23) "Licensee" has the meaning stated in COMAR 14.31.05.03B(20).

(24) "Mechanical restraint" means any mechanical device that restricts the free movement of an individual.

(25) "Medication management" means the facilitation of the safe and effective use of prescription and over-the-counter medications. The management of medications encompasses the way medications are procured, delivered, prescribed, self administered or staff-administered, documented, and monitored.

(26) "Office means the Governor's Office for Children.

(27) "Permanency plan" means a design for services articulated by the placing agency that specifies:

- (a) Where and with whom a child shall live; and
- (b) The proposed legal relationship between the child and the child's permanent caretaker.

(28) "Physical restraint" means the use of physical force, without the use of any device or material, to restrict the free movement of all or a portion of a child's body, not including:

- (a) Briefly holding a child in order to calm or comfort the child;
- (b) Holding the child by the hand or arm to escort the child safely from one area to another:

- (c) Moving a disruptive child who is unwilling to leave the area when other methods such as counseling have been unsuccessful; or
- (d) Breaking up a fight.

(29) "Policy" means a set of basic principles adopted by the Board used to enforce procedures and which are in accordance with the requirements for residential child care programs under this chapter.

(30) "Positive behavioral interventions, strategies, and supports" means a therapeutic intervention that uses a broad range of systemic and individualized strategies for enhancing positive social and emotional results while preventing or reducing challenging behaviors.

(31) "Procedure" means a detailed explanation of how policies will be implemented.

(32) "Program administrator" means the individual, regardless of title, certified under Health Occupations Article, Title 20, Annotated Code of Maryland, who is designated by the Board as having the day-to-day responsibility for the overall administration and operation of a program and for assuring the care, treatment, safety, and protection of children.

(33) "Prone restraint" means a specific type of restraint in which a child is placed face down on the floor or another surface and physical pressure is applied to the child's body to keep the child in the prone position. Use of prone restraint is prohibited in Maryland.

(34) Protective or Stabilizing Device.

(a) "Protective or stabilizing device" means any device or material attached or adjacent to the child's body for the purpose of enhancing functional skills, preventing unintentional harm to self or others, or ensuring safe positioning of an Individual.

(b) Protective or stabilizing device" is limited to:

- (i) Adaptive equipment prescribed by a health professional, if used for the purpose for which the device is intended by the manufacturer;
- (ii) Seat belts; or
- (iii) Other safety equipment to secure children during transportation.

(35) "Residential child and youth care practitioner (RCYCP)" has the meaning stated in Health Occupations Article, Title 20, Annotated Code of Maryland. An RCYCP is direct care staff as defined in COMAR 14.31.06.04B(15).

(36) "Restraint" means a technique that is implemented to impede a child's physical mobility or limit free access to the environment, including chemical, mechanical or physical restraints.

(37) "Seclusion" means the confinement of a child alone in a room from which the child is physically prevented from leaving. Use of seclusion is prohibited in residential child care programs in Maryland.

(38) "Self-administration of medication" has the meaning stated for "self-administer" in Education Article, §7-421(a)(4) Annotated Code of Maryland.

(39) Severe Injury.

(a) "Severe injury" means a medical emergency that requires immediate assessment and intervention by a somatic health care provider.

(b) "Severe injury" includes, but is not limited to, fractures, dislocations, third-degree burns (destruction of tissue), electric shock, loss or tearing of body parts all eye emergencies, ingestion of toxic substance or sharp or dangerous objects, and any injury with loss of consciousness or head injuries.

(40) "Somatic health care" means medical care that addresses an individual's physical health care needs.

(41) "Structural barrier" means any inanimate object.

(42) "Time-out" means the removal of a child to a supervised area, which is unlocked and free of structural barriers that prevent egress for a limited period of time during which the child has an opportunity to regain self-control and is not participating in program activities.

(43) "Trauma-informed care" means a person-centered approach which includes assessment, prevention of re-traumatization, and development and implementation of a safe environment plan. It is a system that reduces the risk of exposure, is strengths-based and resilience-focused, promotes respect, and supports' cultural and developmental factors.

#### **.04 Governance**

A. Legal Status. The licensee shall be incorporated under applicable law and maintain documents which identify its incorporation and administrative structure and staffing, including lines of authority.

B. Governance. The corporation shall have by-laws which describe the Board's legal responsibility for and authority over the policies, finances, and all related activities for implementing the program in accordance with Human Services Article. §8-806.

The Board shall:

(1) Ensure that the corporation does not discriminate on the basis of:

- (a) Race;
- (b) Color;
- (c) National origin;
- (d) Religion;
- (e) Creed;
- (f) Age;
- (g) Sex;
- (h) Sexual orientation;

- (i) Marital status;
- (j) Ancestry; or
- (k) Physical or mental disability;

(2) Screen and select the organization's chief administrator in accordance with corporate policy;

(3) Define in writing the role of the chief administrator;

(4) Require the chief administrator, or appropriate designee authorized to act in the chief administrator's absence, to be accessible at all times to the agency staff and representatives of the Administration;

(5) Conduct an annual written evaluation of the chief administrator;

(6) Ensure that the program is housed, maintained, staffed, equipped, and funded to operate the programs effectively and solvently;

(7) Consult with the Administration and receive its approval before making a substantive change to the service program plan described in the current license application;

(8) Notify the Administration of any change of:

- (a) The chief administrator within 48 hours; and
- (b) Address or phone number of the program office at least 14 days before the change.

(9) At least every 2 years, in consultation with the chief administrator, formulate, review, and revise as necessary the program's written materials concerning:

- (a) Current program and service policy, including short-term and long-term goals;
- (b) Personnel practices and job descriptions;
- (c) Fiscal management policy;
- (d) The program evaluation report; and

(10) Be responsible for:

(a) The fiscal soundness of the program operation and undertake the review and approval of the:

- (i) Program's annual budget;
- (ii) Periodic accounting report; and
- (iii) Annual audit or audit review completed by an independent certified public accountant; and

(b) Maintaining the licensee's continual compliance with the:

- (i) Provisions of the corporation's charter;



- (ii) Terms of all leases, contracts, or legal agreement to which the licensee is a party; and
- (iii) Relevant Federal, State, and Local laws and regulations governing the operation of the licensee.

C. Advisory Board.

(1) If a licensee is an out-of-State corporation, it shall have an advisory board consisting of at least 3 Maryland residents, at least one of whom shall be a member of the board of directors.

(2) The advisory board shall:

- (a) Meet at least quarterly;
- (b) Provide input to the licensee regarding the operation of the program and compliance with these regulations;
- (c) Assist the licensee with its relations with the surrounding community;
- (d) Meet the requirements of §A(5) and (6) of this regulation; and
- (e) Perform such other duties as the licensee shall request.

D. Composition and Organization of the Board

(1) The Board shall:

- (a) Be structured with a president or chair elected from the Board membership who presides at meetings to enable the Board to discharge its responsibilities;
- (b) Adopt bylaws for its operation;
- (c) Maintain written minutes of and records of attendance at all its meetings;
- (d) Ensure that a quorum of its members meet at least quarterly;
- (e) Include at least five members:

- (i) At least one of whom is a Maryland resident;
- (ii) At least one of whom shall have demonstrated experience in or knowledge of the human services field; and
- (iii) At least one of whom shall have demonstrated knowledge in the field of accounting, business, or financial management;

(f) Maintain a list of its membership with each member's:

- (i) Phone number;
- (ii) Address; and
- (iii) Term of membership: and

(g) Have a plan for periodic change of the Board's composition.

(2) An individual who has been convicted of, or who has entered a plea of guilty or nolo contendere to, a charge of child abuse or neglect or contributing to the delinquency of a

minor may not be or become a member of the Board or of an advisory board of the corporation or program.

(3) An employee of the corporation or program or an immediate family member of an employee of the corporation or the program may not be a voting member of the Board.

(4) An individual who is compensated for providing goods or services to the corporation or program may not be a member of the Board.

(5) No member of the Board may be a staff person employed by:

- (a) The Governor's Office for Children;
- (b) A licensing agency;
- (c) Local departments of social services;
- (d) A placement agency;
- (e) The State Department of Education; or
- (f) Any governmental organization which regulates or purchases from the program.

(6) Each member of the Board shall complete a training course on the duties and responsibilities of Board members that is offered by the State or approved by the Office within 3 months of appointment to the Board.

#### E. Chief Financial Officer

(1) The Board shall have a chief financial officer for the corporation.

(2) The chief financial officer shall provide a report at least quarterly to the Board on the financial condition of the corporation.

### **.05 Personnel Administration.**

#### A. Personnel Policies.

(1) The board of directors shall:

- (a) Adopt and adhere to written personnel policies; and
- (b) Review the policies at least every 2 years.

(2) The written policies shall include the following provisions:

- (a) Annual performance evaluation;
- (b) Communicable diseases;
- (c) Confidentiality of records;
- (d) Description of job responsibilities;

- (e) Drug and alcohol free workplace;
  - (f) Employee discipline, suspension, and dismissal;
  - (g) Employee supervision;
  - (h) Grievance procedures for employees;
  - (i) Hiring and recruitment of qualified staff;
  - (j) Hours of work;
  - (k) Organizational chart;
  - (l) Orientation and on-going training requirements;
  - (m) Salary and benefits package;
  - (n) Vacation and other leave allowances;
  - (o) A prohibition against the employment of any person whose physical or emotional health, notwithstanding any accommodations required by law, would impair that person's ability to protect the health, welfare, and safety of the program's residents; and
  - (p) A prohibition against employment discrimination based on race, color, national origin, religion, creed, age, sex, sexual orientation, marital status, ancestry, or physical or mental disability.
- (3) The licensee shall document that all employees have received a copy of the program's personnel policies.
- (4) A licensee may not appoint as an employee, a member of the board of directors, or a volunteer with unsupervised access to children any individual who:
- (a) Refuses to submit to:
    - (i) A criminal background check in accordance with State law, including Family Law Article, §§5-560—5-568, Annotated Code of Maryland; or
    - (ii) A Child Protective Services clearance;
  - (b) Has an indicated child abuse or neglect finding; or
  - (c) Has a conviction for:
    - (i) Child abuse or neglect;
    - (ii) Spousal abuse;

(iii) Rape;

(iv) Sexual assault;

(v) Homicide; or

(vi) Any crime against children;

(d) Has a conviction within 5 years of applying for a job with the program for assault or a drug-related offense; or

(e) Has conviction within 5 years for a violation of the Courts and Judicial Proceedings Article, §3-838 or 3-8A-30, Annotated Code of Maryland.

B. The licensee shall refrain from hiring practices that may result in conflicts of interest, including the concurrent employment of staff persons employed by:

(1) A licensing agency;

(2) Local departments of social services;

(3) A placing agency; or

(4) The State Department of Education.

C. The licensee shall establish and post a code of conduct that:

(1) Bans sexual harassment or other discrimination against staff and residents; and

(2) Requires that staff conduct themselves in a manner appropriate to serve the needs of program residents.

D. The licensee shall:

(1) Have written job descriptions for all positions;

(2) Document that all employees meet or exceed the minimum qualifications for their positions;

(3) Assure that all employees have effective communication skills appropriate to their positions;

(4) Maintain adequate staff coverage at all times based on the time of day, the size and nature of the program, and layout of the physical plant;

(5) Ensure that, when the program administrator is unavailable, that the program administrator appoints a qualified staff member to whom on-site authority is delegated;

(6) Have sufficient staff to carry out the licensee's administrative, business, clerical, dietary, housekeeping, maintenance, secretarial, and supervisory functions; and

(7) Ensure that requests for a criminal background check in accordance with COMAR 12.15.02 and Child Protective Services clearances have been submitted for each prospective employee before the employee begins work at the program.

E. Personnel Record. The licensee shall:

(1) Maintain for each staff member a personnel record that contains:

(a) An employment application or resume showing qualifications and experience;

(b) At least three references documented either by letter or notation of verbal contact indicating:

(i) The date the contact was made;

(ii) The individual making the contact;

(iii) The individual contacted; and

(iv) The reference content;

(c) A written statement of medical examination by a licensed physician, made at the time of the staff member's employment, certifying that the physician has examined the staff member and found nothing in the individual's general, physical, or emotional condition that would endanger the health and well being of children;

(d) A screening for tuberculosis every 2 years administered by the Mantoux method or current Centers for Disease Control and Prevention standard with an analysis of results or, for those staff members whose results were positive, an annual medical certification that the staff member presents no symptoms of active tuberculosis;

(e) Documentation of a criminal background check request made in accordance with State law, including COMAR 12.15.02, and a copy of the initial outcome and any periodic updates;

(f) Documentation of a request for Child Protective Services check and a copy of the outcome;

(g) A completed federal "Employment Eligibility Verification" form (I-9);

(h) A copy of current applicable professional credentials;

(i) A copy of current cardiopulmonary resuscitation certification for all child care staff;

(j) Annual performance evaluations;

(k) Documentation of personnel actions, such as disciplinary and commendation reports relating to the individual's employment with the program;

(l) For a staff member who drives a motor vehicle to transport children:

(i) A copy of the staff member's current driver's license; and

(ii) An official copy of the staff member's driving record updated every 2 years;

(m) Documentation that the staff member has received and read the policies described in Regulations .14 and .15 of this chapter related to the reporting of suspected child abuse and neglect and discipline and control of children; and

(n) Documentation that the staff member has received the employee training required under §F of this regulation;

(2) Grant a staff member reasonable access to the staff member's own personnel record; and

(3) Maintain the personnel file of each employee for a period of 5 years after the employee leaves the employment of the licensee.

#### F. Training of Child Care Workers.

(1) Each employee who provides direct care to children shall receive a minimum of 40 hours of initial and annual training.

(2) The program administrator shall designate an employee to accompany new direct care employees on initial tours of duty until the employee's supervisor determines that the new employee:

(a) Is able to effectively safeguard the health and safety of the children; and

(b) Has completed the requirements of §F(3)(a)—(f) of this regulation.

(3) The training of employees who may provide direct care to children shall include:

(a) Emergency preparedness and general safety practices;

(b) Cardiopulmonary resuscitation leading to certification;

(c) Annual first-aid training either through completion of:

(i) American Red Cross standard first-aid course which is valid for the period of time recognized by the American Red Cross; or

(ii) First-aid training by a certified or otherwise qualified instructor;

- (d) Child abuse and neglect identification and reporting, including training in accordance with any curriculum provided by the licensing agency regarding specific aspects of child abuse and neglect prevention and reporting in residential programs;
  - (e) Suicide risk assessment and prevention;
  - (f) Approved forms of discipline and behavior management techniques including crisis management and the use of isolation and restraints;
  - (g) Medication management;
  - (h) Infection control and Maryland Occupational Safety and Health Bloodborne Pathogen Standards;
  - (i) Parenting issues, collaboration with families, and supporting children and families in making choices;
  - (j) Psychosocial and emotional needs of the children, family relationships, and the impact of separation;
  - (k) Special needs of the population served;
  - (l) Child development;
  - (m) The role of the child care employee;
  - (n) Food preparation, food service, and nutrition, if the employee is involved in preparing meals for residents; and
  - (o) Communication skills.
- (4) Staff training shall utilize any relevant curriculum approved by the licensing agency.

G. Employee Evaluation. The licensee shall:

- (1) Evaluate each employee at least once a year; and
- (2) Document each evaluation with the signature and date of the signature of the employee and the employee's immediate supervisor.

H. Staffing Plan. The licensee shall:

- (1) Analyze:
  - (a) The number of children the licensee intends to serve;
  - (b) The needs of each of the children to be served; and

- (c) The needs of the program based on the size and layout of the physical plant;
- (2) Develop and implement a staffing plan that:
  - (a) Addresses the health and safety needs of each child;
  - (b) Provides each child with the services identified in the child's individual service plan;
  - (c) Provides for the treatment, recreation, education, and social development of children in placement; and
  - (d) Addresses the management of staffing needs, including:
    - (i) Maximum work hours;
    - (ii) Deployment of personnel; and
    - (iii) Emergency staffing.

**.06 Employee Duties and Qualifications.**

**A. Program Administrator.**

- (1) The Board shall employ a certified program administrator responsible for:
  - (a) Overall administration of the program;
  - (b) Implementation of all policies;
  - (c) Maintenance of the physical plant; and
  - (d) Fiscal accountability.
- (2) The program administrator shall be certified as required by Health Occupations Article, Title 20, Annotated Code of Maryland.
- (3) The Board may appoint a noncertified individual to serve in the capacity of acting program administrator in accordance with Health Occupations Article, Title 20, Annotated Code of Maryland.

**B. Direct Care Staff.**

- (1) The licensee shall employ direct child care staff to:
  - (a) Assist the children in meeting the goals and objectives of their individual plans of care;
  - (b) Guide and supervise the children in accordance with the Residents' Bill of Rights in Human Services Article, §8-707, Annotated Code of Maryland;
  - (c) Manage the children's behavior;
  - (d) Promote the physical and emotional well-being of the children; and
  - (e) Facilitate the attainment of independent living skills based on the needs of the child.



- (2) Direct care staff shall be 21 years old or older and have a high school diploma or its equivalent
- C. Human Service Professionals. The licensee shall employ human service professionals appropriate to the needs of the child and the nature of the program to perform functions in accordance with Regulation .17 of this chapter, including:
- (1) Developing, reviewing, and signing each individual plan of care;
  - (2) Consulting with and training employees regarding implementation of each individual plan of care;
  - (3) Developing, reviewing, and signing each individual plan of care and discharge plan;
  - (4) Participating in the admission process;
  - (5) Providing counseling services to the children directly or through community resources; and
  - (6) Serving as a liaison to the children's parents or legal guardian, schools, juvenile court, and other social and community services.
- D. Other Professional Service Providers. The licensee shall:
- (1) Obtain any other professional services, including consultation required for the implementation of individual plans of care, that are not available from its employees;
  - (2) Ensure that the professionals are qualified, certified, or licensed appropriately for the nature of the service; and
  - (3) Obtain the signature of the professional in agreement to comply with the licensee's confidentiality policy.
- E. Volunteers or Student Interns. If volunteers or student interns are used, the licensee shall:
- (1) Adhere to a written plan for the participation of volunteers or student interns;
  - (2) Ensure that volunteers and student interns who have direct contact with the children and who perform the duties of an RCYCP:
    - (a) Are supervised and evaluated by appropriate staff;
    - (b) Are not used to replace a required staff position;
    - (c) Have references verified by the licensee;
    - (d) Are oriented and trained in:
      - (i) The philosophy of the program;
      - (ii) The needs and rights of the children; and
      - (iii) The methods of meeting those needs;

- (e) As appropriate, are aware of or have input into the children's individual plans of care;
- (f) Annually are screened for tuberculosis by the Mantoux method or the current Centers for Disease Control and Prevention standard and analysis of results or, for a volunteer or student intern whose screening results were positive, provide an annual medical certification that the individual presents no symptoms of active tuberculosis;
- (g) Are not permitted to have unsupervised access to children until the licensee has:
  - (i) Received the results of a criminal background check;
  - (ii) Received the results of a child protective services check;
  - (iii) Resubmitted an application for a child protective services check every 2 years from the date of commencement of the provisions of services; and
  - (iv) Completed the training required in Regulation .05E of this chapter; and
- (h) Provide the licensee a copy of applicable professional credentials.

**.07 Physical Plant.**

A. General Requirements. The licensee shall:

- (1) Comply with federal, State, and local building, fire, and health codes and laws, and all applicable local zoning laws;
- (2) Use a physical plant that is constructed and equipped in a manner consistent with the needs of the children, staff, and visitors and that is constructed and maintained reasonably to protect and to ensure the safety of all staff and residents;
- (3) Ensure compliance by submitting annually to the licensing agency:
  - (a) Reports of all annual fire and health inspections conducted by the local jurisdiction; or
  - (b) If the local jurisdiction does not conduct annual fire or health inspections annually, written documentation shall be obtained annually from the appropriate public agencies that inspections are not required;
- (4) Maintain evidence and provide documentation upon request that the physical plant had been tested for and found to be free of hazards from lead paint, asbestos, and radon;
- (5) Ensure that all facilities maintain at least one working fire extinguisher:
- (6) If there is evidence of insect or rodent infestation provide documentation of:
  - (a) An inspection; and
  - (b) Insect or rodent treatment, if necessary; and
- (7) Install telephone service and equipment that is:

- (a) Not solely provided through the use of cellular phone service;
- (b) Accessible and usable by staff and residents;
- (c) In all buildings used by the children.

B. License. The licensee shall prominently display the authentic current residential child care program license on site:

- (1) In the building bearing the address listed on the license;
- (2) In an area of the building open and easily accessible to visitors; and
- (3) In accordance with the requirements of the licensing agency.

C. Building, Grounds, and Equipment. The licensee shall:

- (1) Maintain all structures and grounds free from health and safety hazards;
- (2) Ensure that all outside and kitchen trash containers are covered;
- (3) Remove all trash at least once a week or more frequently as needed;
- (4) Ensure that all infectious waste is stored in biohazard waste containers and removed on a regular basis; and
- (5) Locate, install, and safely maintain appropriate playground or other recreational equipment.

D. Counseling and Administrative Space. The licensee shall maintain a designated space separate from the children's living area:

- (1) For private discussions and counseling; and
- (2) For administrative purposes.

E. Living Areas. The licensee shall ensure that each building that houses children:

- (1) Has adequate space for informal and recreational use by the children;
- (2) Is not used as a primary residence for any individual other than children placed in the program;
- (3) Is a smoke and pollutant free environment;
- (4) Has walls that are:
  - (a) Regularly cleaned and painted; and
  - (b) Kept free of perforations, cracks, or punctures; and

(5) Is maintained in a clean and orderly manner.

F. Sleeping Accommodations.

(1) The licensee shall ensure that bedrooms occupied by ambulatory children measure at least:

- (a) 80 square feet of usable floor space in single occupancy bedrooms; or
- (b) 60 square feet of usable floor space per child in multiple occupancy bedrooms.

(2) The licensee shall ensure that bedrooms occupied by non-ambulatory children measure at least:

- (a) 120 square feet of usable floor space in single occupancy bedrooms; or
- (b) 100 square feet of usable floor space per child with at least 3 feet between beds in multiple occupancy bedrooms.

(3) A licensee shall:

- (a) Supply individual beds that are:
  - (i) Adequate in size to accommodate the height and weight of the child; and
  - (ii) Solidly constructed and consisting of a clean, comfortable, nontoxic, and fire-retardant mattress capable of being disinfected;
- (b) Maintain separate sleeping rooms for boys and girls who are 2 years old or older;
- (c) Allow no more than four children to sleep in a bedroom;
- (d) Ensure that the mattress of any bed in use is far enough away from the ceiling to allow the occupant to sit up in bed;
- (e) Change all bed linens at least once a week and whenever soiled;
- (f) Provide waterproof mattress protection for children who are enuretic;
- (g) Disinfect mattresses after use by another child;
- (h) Provide the children with a personal bureau or locker for clothing and personal belongings and a designated space for hanging clothing;
- (i) Allow the children to have some discretion in the decoration of sleeping areas;
- (j) Assure that all living areas are kept orderly and clean: and
- (k) Provide a source of natural lighting.

(4) For children who sleep in beds, the licensee shall:

- (a) Provide a pillow, two sheets, and sufficient covering for comfort;
- (b) Prohibit the use of cots, bunk beds, loft beds, or sleep sofas as beds; and
- (c) Ensure that only the child assigned to a bed sleeps in it.

(5) For infants and other children who require a crib, the licensee shall:

- (a) Shall provide an age appropriate sized crib for each infant or child in care;
- (b) May not allow an infant to sleep in a playpen or on a mat at any time; and
- (c) Shall ensure that:
  - (i) Only the infant assigned to a crib sleeps in it;

- (ii) All cribs and playpens meet industry standards;
- (iii) Mattresses used in cribs and playpens fit snugly;
- (iv) Each infant has sheets, blankets, and other coverings for the infant's exclusive use;
- (v) Wet, soiled or damaged sheets, mattresses, blankets, or other coverings are immediately replaced;
- (vi) All sheets and blankets are laundered at least once a week, or, if soiled, are laundered before next use; and
- (vii) Cribs and playpens are free of hazards.

G. Bathrooms. The licensee shall:

- (1) Keep bathrooms in good operating order and maintain sanitary conditions;
- (2) For every five children, provide at least:
  - (a) One sink with hot and cold water;
  - (b) One bath or shower with hot and cold water; and
  - (c) One flush toilet;
- (3) Unless the children require assistance, provide toilets and baths or showers that allow for individual privacy;
- (4) Equip tubs and showers with slip-proof surfaces;
- (5) Secure mirrors to the walls at heights appropriate for use by the children; and
- (6) Unless otherwise specified in the child's individual plan of care, make available 24 hours a day, without children needing to request them, personal hygiene supplies, including but not limited to, toilet paper, soap, shampoo, toothbrushes, towels and washcloths; and
- (7) Equip bathrooms with adaptive equipment based on the needs of the children served.

H. Kitchens and Dining Areas. The licensee shall:

- (1) Have equipment and space for meal preparation, storage, serving, eating, and clean-up of meals;
- (2) Maintain all equipment in clean, safe working order, and ensure that equipment meets all applicable health and safety standards;
- (3) Unless the licensee documents that disposable dinnerware is necessary to protect the health or safety of the children, refrain from using disposable dinnerware on a daily basis;
- (4) Ensure that all dishes, cups, and glasses used by the children are:
  - (a) Free from chips, cracks, or other defects; and

(b) Properly cleaned between each meal; and

(5) Unless otherwise specified in the child's individual plan of care, ensure that children have access to unlocked food storage areas containing approved between-meal snacks.

I. Furnishings. The licensee shall supply clean, comfortable furniture in good repair.

J. Doorways, Windows, and Window Coverings. The licensee shall supply:

(1) Doors that can be opened from the inside and the outside for all bedrooms and bathrooms;

(2) Screens that are in good repair and removable in emergencies on all exterior windows that can be opened and exterior doors that may be left open;

(3) Window coverings that will ensure privacy;

(4) All window coverings, which shall have no draw cord capable of forming a loop greater than 7.25 inches;

(5) All new and replacement window coverings, which shall be cordless window coverings; and

(6) For each door or window in high-risk areas, such as recreation rooms and stairwells, shatter-resistant material or safety glass.

K. Electrical Systems. The licensee shall ensure that the physical plant has:

(1) Electrical equipment, wiring, switches, sockets, and outlets which are maintained in compliance with local and State building codes;

(2) Sufficient illumination in rooms, corridors, and stairwells to permit safe usage; and

(3) Lighting of exterior areas during the night.

L. Climate Control. The licensee shall:

(1) Provide heating and cooling systems which meet all applicable codes;

(2) Ensure heating systems that exceed 120°F that are accessible to residents are equipped with protective materials to prevent residents from coming in contact with the heat source;

(3) Maintain an air temperature of at least 68°F in the living areas and sleeping quarters of the physical plant; and

(4) Prohibit the use of kerosene or open coil heaters.

M. Ventilation. In accordance with all local building codes, the licensee shall supply ventilation for each room used by the children through:

- (1) A window that can be opened;
- (2) An exhaust fan; or
- (3) An air conditioning system.

N. Water. The licensee shall:

- (1) Provide a continuous supply of potable hot and cold running water;
- (2) Equip the physical plant with a sanitary potable water distribution system;
- (3) Ensure that hot water accessible to the children is regulated to a temperature of 110 °F or lower; and
- (4) If water from any source other than a public water supply is used:
  - (a) Annually obtain a water test conducted by the appropriate State or local authority in accordance with State or local law; and
  - (b) Keep on file the most recent test report.

**.08 Emergencies and General Safety.**

A. Emergencies.

(1) The licensee shall:

- (a) Hold emergency drills:
  - (i) At least monthly;
  - (ii) On each shift, at least quarterly;
  - (iii) At unexpected times and under varying conditions; and
  - (iv) Maintain documentation of drills for 3 years;
- (b) Post adjacent to all telephones a list of emergency telephone numbers for:
  - (i) Ambulance;
  - (ii) Fire;
  - (iii) Police;
  - (iv) Poison control; and
  - (v) Program administrator;
- (c) Post accessible copies of the evacuation procedure in conspicuous places on each floor of the physical plant; and
- (d) Keep exits free of obstruction or impediments to immediate use.

(2) The licensee shall develop an emergency plan for foreseeable emergencies and disasters that shall include:

(a) Procedures that will be followed before, during, and after an emergency to address the following:

- (i) Ensuring that documentation regarding children and staff contains current health, contact persons, and other important information that is immediately accessible in the event of an evacuation;
- (ii) Establishing a communication protocol among all appropriate parties that includes redundant communication means; and
- (iii) The notification to parent or legal guardian, licensing agency, and placing agency regarding the action that will be taken concerning the safety and well-being of the children served;

(b) The evacuation, transportation, and 72-hour shelter-in-place of children and staff served;

(c) The staff coverage, organization, and assignment of responsibilities that include:

- (i) Staff coverage needs for ongoing shelter-in-place or evacuations;
- (ii) Identification of staff members available to report for or remain at work for extended periods; and
- (iii) Establishment of staff notification and recall contingency plans and procedures;

(d) The continuity of services, including:

- (i) Operations, planning, and financial and logistical managements;
- (ii) Procurement of essential goods, equipment, and services to sustain operations for at least 72 hours;
- (iii) Relocation to alternate facilities or other locations; and
- (iv) Reasonable efforts to continue care;

(e) Provisions to ensure that the facility's emergency and disaster plans are shared with local emergency management organizations;

(f) An executive summary of the evacuation procedures that shall be provided, on request, to the family member of a child; and

(g) Provisions to ensure that all staff and volunteers are aware of the procedures required by this chapter and that all staff and volunteers implement each procedure as adopted.

B. General Safety. The licensee shall:

- (1) Maintain a written active safety plan;
- (2) Document accidents;
- (3) Maintain first-aid kits appropriate in size and content to the nature of the program;
- (4) Prohibit firearms and chemical weapons on the grounds of or within the physical plant;



(5) Maintain poisonous, toxic, or flammable materials in accordance with appropriate health code standards;

(6) Except under the supervision of staff for use during celebrations, prohibit the use of candles;

(7) Maintain in safe and good repair power-driven equipment;

(8) Ensure that power-driven equipment is used by children only under the direct supervision of an employee and in accordance with State law; and

(9) Ensure that, if animals are kept on the grounds or in the facility:

(a) The animals are, consistent with the local ordinance or State law:

- (i) Licensed or registered;
- (ii) Vaccinated; and
- (iii) Leashed when outdoors;

(b) Children are, when age appropriate, educated regarding the care and grooming of the animal;

(c) Children allergic to the animal are not placed with the licensee;

(d) A responsible adult is always present when an animal is near an infant; and

(e) An animal suspected of becoming dangerous is removed from the grounds and facility.

C. Toys and Equipment. The licensee shall ensure that all toys and equipment used by children are:

(1) Sturdy;

(2) Of safe construction;

(3) Nontoxic;

(4) If used by children younger than 3 years old, large enough so they cannot be swallowed by a child;

(5) Clean; and

(6) In compliance with the standards of the Consumer Product Safety Commission.

D. Transportation. A licensee shall:

(1) Supply transportation necessary to implement the children's individual service plans, including:

- (a) The provision of any necessary specialized transportation to accommodate a child who uses medical equipment; and
- (b) The capacity to transport children in case of an emergency;

(2) Enhance the safety of children during transportation by ensuring:

- (a) The development and enforcement of appropriate written safety rules for transporting children;
- (b) Proper registration and maintenance in a safe condition and in conformity with all applicable laws any motor vehicle used for the transportation of children;
- (c) Retention of maintenance and repair records on all licensee-owned or leased motor vehicles used for the transportation of the children;
- (d) The availability of a first-aid kit in all vehicles used to transport children; and
- (e) Compliance with federal and State laws on child restraint;

(3) Ensure that an individual who operates a licensee-owned or leased motor vehicle to transport the children is properly licensed to operate that class of vehicle;

(4) Ensure that the number of individuals in a motor vehicle used to transport the children does not exceed the vehicle's industry-rated capacity;

(5) Assure that any motor vehicle, whether owned by the licensee or a licensee's employee, which is used to transport children is properly insured for that purpose;

(6) Meet any special medical needs that a child may have during transportation, including:

- (a) Advising the motor vehicle's operator if a child's health needs may cause difficulties during transportation, such as seizures, tendency towards motion sickness, or a disability; and
- (b) For non-ambulatory children in all motor vehicles except automobiles:
  - (i) Using a ramp device or a hydraulic lift, if a ramp device is also available in case of emergency, to permit entry and exit of the children; and
  - (ii) Securing wheelchairs to the floor and arranging them with adequate aisle space and access to the exit door; and

(7) Curtail the use of 15-passenger vans for the transportation of children as follows:

- (a) Licensee may not acquire or otherwise put into service a 15-passenger van for the transportation of children; and
- (b) After January 1, 2006, a licensee may not transport children for any purpose in a 15-passenger van.

E. Swimming Pools, Hot Tubs, and Spas.

(1) If an in-ground swimming pool is located on the grounds of a licensee:

- (a) The pool shall be maintained in a safe and sanitary condition;
- (b) If a child younger than 8 years old is placed with the licensee, the pool area shall be completely enclosed by a fence that is:
  - (i) At least 4 feet high; and
  - (ii) Constructed of wood, concrete, brick, or chain metal; and
- (c) When the pool is not in use:
  - (i) The pool area shall be protected from access by a locked gate; and
  - (ii) The pool shall be completely covered in a manner to prevent access by a child.

(2) The licensee shall ensure that an above-ground swimming pool located on the licensee's grounds:

- (a) Is maintained in a safe and sanitary condition;
- (b) Is 4 feet above ground at all points; and
- (c) When not in use, has:
  - (i) A secured cover which prevents access by children, or retractable or removable ladders locked or stored away from the pool;
  - (ii) Locked doors and gates that access the pool; and
  - (iii) No climbable objects on the pool's exterior.

(3) The licensee shall allow children to swim:

- (a) Only in approved areas; and
- (b) Under the supervision of sufficient individuals who:
  - (i) Are trained in first aid, water safety, and cardiopulmonary resuscitation; and
  - (ii) Have current senior lifesaving certificates from the American Red Cross or its equivalent.

(4) Hot tubs and spas are prohibited on the grounds of a licensee's facility.

E. Any applicable State, federal, or local requirement shall control in the event of any conflict by any requirement in this chapter.

### **.09 General Program Requirements.**

A. Community Integration. The licensee shall:

- (1) Develop and institute a plan to integrate the program into the life of the community, ensuring that children have opportunities to participate in community activities to a degree consistent with their needs and limitations;
- (2) Ensure that community residents have reasonable access to the program administrator to address concerns about the program staff and residents;

- (3) Appoint at least one resident of the community to be a member of the Board; and
- (4) Develop and implement a procedure for the resolution of complaints from the community.

B. Communications with Family and Others. The licensee shall:

- (1) Before or upon placement, give the child's parent or legal guardian, the placing agency, and the child, a program handbook that is in a format that is understandable and comprehensive, and includes:
  - (a) The mission of the program and its admission and discharge policy;
  - (b) Normal daily routines;
  - (c) Treatment strategies and disciplinary philosophy;
  - (d) Visiting hours and other procedures related to communication with the child;
  - (e) A procedure through which the child or parent may register grievances regarding the child's care;
  - (f) The program's policies with respect to accessing health care and the exercise of religion or a life philosophy; and
  - (g) The telephone number of the appropriate staff on duty who may be contacted;
- (2) Implement a written policy regarding communication which includes visitation, correspondence, reports, and telephone contact between the child and others;
- (3) Consult with the placing agency to ascertain the child's status with respect to family member contact and encourage family participation in the plan of care;
- (4) Consistent with the child's individual plan of care, maintain conditions of reasonable privacy for the child's visits and telephone contacts;
- (5) Have flexible visiting hours for visitors who are unable to visit at the regular times;
- (6) Unless inconsistent with the child's individual plan of care, permit the child to receive and send mail;
- (7) Establish and implement written procedures for all overnight visits away from the program which address:
  - (a) Documentation of permission from the placing agency, parent, or guardian;
  - (b) Determination of the duration of the visit; and
  - (c) Documentation of the:
    - (i) Name and address of the individual responsible for the child while absent from the program;
    - (ii) Child's location while absent from the program; and
    - (iii) Time of the child's departure from and return to the program;
- (8) Prohibit restrictions on a child's access to the child's attorney; and

(9) When a child's communication with an individual outside the program is curtailed or terminated:

- (a) Inform the child and, unless unsafe for the child, the individual affected by the restriction; and
- (b) Include a written statement of the reasons for the restriction in the child's case file.

C. Normal Daily Routines. The licensee shall:

- (1) Have a written plan of normal daily routines which shall be made available to the children and employees; and
- (2) Unless inappropriate, permit the children to participate in planning normal daily routines.

D. Public Relations.

(1) Before using a child's picture or other uniquely identifying information for the purpose of public relations in any form, the licensee shall obtain the written consent of:

- (a) The child, if appropriate;
- (b) The child's parent or legal guardian; and
- (c) If required, the juvenile court.

(2) The licensee may not use a child, a child's picture, or other uniquely identifying information in any way that would likely be harmful or cause embarrassment to the child or the child's family.

E. Child Grievance Procedure.

(1) The licensee shall establish and follow a written grievance procedure that:

- (a) Includes:
  - (i) Each step in the process;
  - (ii) Specific timelines; and
  - (iii) Identification of the person who should receive the grievance;
- (b) Requires documentation of receipt of the procedure in the child's individual case record; and
- (c) Documents all grievances and communicates corrective actions to the:
  - (i) Licensing agency; and
  - (ii) The child and the child's parents or legal guardian, as appropriate.

(2) The licensee shall provide the child and the child's parents or legal guardian unimpeded access to a description of how to file a grievance. including:

(a) Any formal grievance forms or other requirements for the format and content of the complaint;

(b) Guidance for obtaining staff and other assistance in completing and filing a grievance; and

(c) Instructions regarding the identity, address, and telephone number of the individuals designated to receive and act upon grievances.

(3) The licensee shall post the name and telephone number of the licensing agency and child protective services contact persons near every telephone that is accessible to staff and residents.

(4) The licensee shall ensure that there is no retaliation against a child or a child's family for filing a grievance.

(5) The grievance procedure shall be approved by the licensing agency.

**.10 Basic Life Needs.**

A. General. The licensee shall have a structured plan of care designed to meet the children's physical needs and well-being.

B. Food and Nutrition. The licensee shall:

(1) Serve food that meets or exceeds the children's recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences;

(2) Maintain at least a 72-hour supply of food in accordance with the planned menu;

(3) Maintain nonperishable food items in the event of an emergency, in accordance with the licensee's emergency preparedness plan;

(4) Provide each child three meals each day, which are approved by a registered dietician and offer nutritious between-meal snacks, with not more than 14 hours between dinner and breakfast the following day;

(5) Offer approved supplementary or modified nutritionally sufficient diets for religious, cultural, life philosophy, or health reasons, as appropriate;

(6) Prohibit forced feeding of or withholding of food from a child as a form of discipline;

(7) Ensure that if employees are served food from the facility, it shall be the same food as that served to the children;

(8) Observe the applicable requirements of the Department of Health and Mental Hygiene and local health departments; and

(9) Design menus that:

- (a) Are kept on file for 12 months;
- (b) Are approved at least annually by an individual licensed by the State to practice dietetics;
- (c) Are planned at least a week in advance;
- (d) Document the actual foods served, including comparable substitutions; and
- (e) Document any between-meal snacks provided.

C. Children's Personal Funds. The licensee shall:

- (1) Have and observe a written policy concerning a child's personal funds which addresses:
  - (a) The child's access to the child's personal funds;
  - (b) Accrual of interest into the child's account from an interest bearing account;
  - (c) Accounting for the child's funds on request; and
  - (d) The limit, if any, placed on the personal funds a child may bring into and hold while in the program;
- (2) Make an inventory of the child's personal funds and other belongings upon admission, and update the inventory as needed;
- (3) Treat money earned by a child or received by the child as a gift or as an allowance as the child's personal property;
- (4) Account for and maintain a child's personal funds separate from program funds;
- (5) Transfer a child's personal funds to the child within 5 business days of discharge from the program;
- (6) As applicable, deduct reasonable sums from a child's allowance as restitution for damage done, if the practice is consistent with the licensee's program and written restitution policy; and
- (7) Ensure that restitution shall be paid from the child's personal funds in accordance with the child's court order.

D. Clothing. The licensee shall:

- (1) Ensure that the children have an adequate supply of clean, comfortable, well-fitting clothes, and shoes for indoor and outdoor wear;
- (2) Treat a child's clothing as the child's personal property;
- (3) Allow a child to be involved, as appropriate, in the selection, care, and maintenance of the child's clothing;
- (4) Use donated clothing only if suitable and in good condition~ and

(5) Transfer a child's clothing to the child upon discharge.

E. Other Personal Belongings.

(1) The licensee shall have a policy regarding personal belongings that will:

- (a) Allow a child to possess appropriate personal belongings;
- (b) Make reasonable provisions for the protection of a child's personal belongings; and
- (c) Transfer to a child the child's personal belongings upon discharge.

(2) The licensee may limit the size, value, or type of personal belongings that a child may bring to the program.

F. Personal Hygiene. The licensee shall:

(1) Instruct the children in good habits of personal care, hygiene, and grooming; and

(2) Provide each child with culture-specific and gender-specific hygiene products, including, but not limited to:

- (a) A toothbrush and toothpaste;
- (b) Mouthwash and dental floss;
- (c) A comb and brush;
- (d) Clean towels and washcloths;
- (e) Soap;
- (1) Shampoo and conditioner;
- (g) Body lotion or moisturizer;
- (h) Deodorant; and
- (i) Feminine hygiene products.

D. Sleep. The licensee shall:

(1) Establish and follow routines for waking the children and putting them to bed; and

(2) Provide children the opportunity each night for at least 8 hours of uninterrupted sleep; except in the event of an emergency or drill

**.11 Children's Rights.**

A. General. The licensee shall provide services designed to meet the children's needs for guidance, learning, and personal development.

B. Each child shall be treated in compliance with a "Residents' Bill of Rights)" as set forth in Human Services Article, §8-707, Annotated Code of Maryland.

**.12 Children's Services**



A. Education.

(1) Each licensee shall collaborate with the placing agency and document efforts to:

- (a) Ensure that each child of mandatory school age who has not earned a high school diploma or certificate of completion under COMAR 13A.03.02.02 is receiving an appropriate elementary or secondary school education;
- (b) If the child is a student with disabilities, cooperate with the team constituted under COMAR 13A.05.01 as appropriate to ensure that the child receives special education and related services as provided in the child's individualized education program; and
- (c) Ensure that each child above the mandatory school age who has not received a secondary school diploma or certificate of completion under COMAR 13A.03.02.02 participates in:
  - (i) A secondary school education program;
  - (ii) A tutoring program to prepare the child to take the General Educational Development Test under COMAR 13A.03.03; or
  - (iii) Developmentally appropriate vocational skills training.

(2) The placing agency and licensee shall work cooperatively with the local school system to:

- (a) Facilitate the child's enrollment in school within the local school system within 3 school days of placement at the facility, and if not feasible, document in writing all attempts and rationale for the delay;
- (b) Ensure that the child attends the local school whenever feasible and appropriate consistent with Education Article, §4-122(a)(4), Annotated Code of Maryland; and
- (c) Participate as appropriate in the child's educational activities.

(3) If a licensee determines that there is a need to establish educational services in its facility, the licensee shall:

- (a) Obtain a certificate of approval in accordance with COMAR 13A.09.10, if the licensee intends to establish a nonpublic educational program or GED program; or
- (b) Establish a tutoring program for children who are concurrently enrolled in a public or nonpublic educational program.

(4) Each licensee shall notify the placing agency and the licensing agency when a child is suspended from school for more than 3 days.

(5) Each licensee shall immediately notify the placing agency and the licensing agency when a child is expelled from school.

(6) Each licensee shall develop an individualized daily program plan for a child who has been suspended or expelled from school

B. Recreation and Leisure. The licensee shall develop a written plan that:

(1) Provides the children with a range of indoor and outdoor recreation and leisure activities both in the program and in the community; and

(2) Bases recreation and leisure activities on a child's needs and interests and the group composition.

C. Life Skills Training. The licensee shall provide each child with life skills training appropriate to the age and capability of the child in areas including:

(1) Accessing community resources and services;

(2) Conflict resolution;

(3) Dating, marriage, and family planning;

(4) Decision making;

(5) Money management;

(6) Nutrition;

(7) Personal hygiene and grooming;

(8) Personal relationships;

(9) Personal safety; and

(10) Time management.

D. Work Experience. The licensee:

(1) Shall train a child in work readiness according to the child's age and capability;

(2) Shall develop appropriate work experiences for a child that:

(a) Do not interfere with a child's time for school, study periods, sleep, community activities, or family visits;

(b) Comply with federal and State law on labor and employment and child labor; and

(c) Do not use a minor as a substitute for child care staff;

(3) Shall change the child's routine duties often to provide a variety of experience; and

(4) For a child who legally is not attending school shall document informing the child of opportunities of or assistance to the child in the attainment of gainful employment or facilitation of the participation of the child in a vocational academic program geared to the acquisition of suitable employment or necessary life skills.

**.13 Health Care.**

**A. General Health Services.** The licensee shall:

- (1) Establish and implement a written plan for the provision of preventive, routine, and emergency medical, dental, optical, and mental health care for the children;
- (2) Establish and implement a written policy for documenting and addressing health complaints; and
- (3) Obtain written authorization from a parent, legal guardian, or other authorized individual for emergency and nonemergency medical, dental, optical, or mental health care.

**B. Medication Administration Policy.**

- (1) The licensee shall observe written policies for the management and administration of medications to children.
- (2) The policy shall comply with all relevant State statutes and regulations.

**C. Medication Management.**

- (1) The licensee shall maintain medications as follows:
  - (a) The licensee shall store medications in a locked drawer, cabinet, or container intended for medication storage, or, if a refrigerator is required, in a locked container in the refrigerator;
  - (b) The licensee shall store all Schedule I and Schedule II controlled substances, as defined in Criminal Law Article, Title 5, Annotated Code of Maryland, under two consecutive locks; and
  - (c) The licensee shall discard outdated or discontinued prescription and over-the-counter medications in a manner that prohibits misuse.
- (2) For a newly admitted child, the licensee shall:
  - (a) Continue any current medications that the child is receiving at the time of admission to the program; and
  - (b) Within 3 days of admission, consult with the licensee's medical care provider, psychiatrist, or the child's primary care physician concerning the continuation of a current medication.
- (3) For each child in the program who receives medications, the licensee shall:
  - (a) As medically indicated, obtain from the child's medical care provider a review of the child's medications and documentation of the reasons for continuing, discontinuing, or changing medication, depending on the child's medical needs; and
  - (b) Document all medication taken, including the:

- (i) Name of the child;
- (ii) Name of the medication;
  
- (iii) Frequency and dosage of the medication;
- (iv) Date, time, and type of administration of the medication; and
- (v) Name and signature of the employee who administered the medication or supervised its self-administration;

(c) Notify the prescribing physician in any case of a medication error or drug reaction; and

(d) Coordinate with the pharmacy and the child's parents or legal guardian to provide information about appropriate administration of medications during the child's home visits.

(4) The licensee shall include the training provided under Regulation .05E(4)(g) of this chapter to all direct care staff regarding:

(a) The therapeutic benefits and side effects of medications used by children in the program; and

(b) Medication administration, in accordance with the requirements of §B of this regulation.

(5) The licensee shall prohibit the use of medication for the purpose of group control, experimentation, or research.

(6) The licensee shall coordinate with the child's health care provider and the placing agency at the time of the child's discharge to ensure continuity in the administration of medications to the child.

D. Somatic Health Care. The licensee shall:

(1) Establish and implement written policies and procedures for the provision of somatic health care services;

(2) Provide the children with access to somatic health care through a physician licensed to practice medicine in the State or, under the supervision of a licensed physician, a nurse practitioner or physician's assistant appropriately certified or licensed to practice in the State;

(3) Arrange for access to prompt diagnosis and treatment of acute illnesses;

(4) Arrange for access to continuing care for chronic illnesses;

(5) Arrange for hospitalization for a child when deemed necessary by the licensee's somatic health care provider; and

(6) As authorized by State and federal law, make available to the child, the child's parent or legal guardian, and the placing agency a copy or summary of the child's health record.

E. Dental Care. The licensee shall:

(1) Provide the children with access to dental care through a dentist licensed to practice dentistry in the State;

(2) Unless a child has been examined and treated as necessary during the 6 months before the child's admission to the program, have each child examined by a dentist within 30 days after admission;

(3) Have each child examined by a dentist at least every 12 months or more frequently as prescribed by the dentist; and

(4) Arrange for access to prompt treatment of acute dental needs.

F. Vision and Audiological Care. The licensee shall provide the child with access to vision and audiological care as authorized by the child's primary care physician through an appropriate professional licensed to practice in the State.

G. Immunization. The licensee shall:

(1) Within 30 days after admission and subject to the provisions of State law, provide for the immunization of any child who has not been immunized in accordance with the immunization schedules of the American Academy of Pediatrics; and

(2) Maintain a record of immunizations in the child's individual case record.

H. Physical Examination. The licensee shall secure a physical examination for each child, with a copy of the documentation of the examination:

(1) Within 30 days of admission or earlier if indicated by the child's health status, unless a child has been examined and treated as necessary during the 12 months before the child's admission to the program; and

(2) After the examination conducted under §H(1) of this regulation, according to a schedule established by the child's medical care provider, the American Academy of Pediatrics, or the Early and Periodic Screening, Diagnosis, and Treatment schedule.

I. Emergency Health Services. The licensee shall establish and implement written policies and procedures for emergency medical, dental, or mental health needs requiring emergency hospital treatment, including:

(1) Communication of the need for immediate assistance;

(2) Transportation of the child:

(3) Notification to the licensing agency, the placing agency, and unless inconsistent with the child's individual plan of care, the child's parent or legal guardian; and

(4) Supervision of the child and the children remaining at the program.

J. Communicable Diseases. The licensee shall:

(1) Establish and implement a policy for managing communicable diseases, including isolation when necessary;

(2) Establish and implement a policy that requires staff to exercise standard precautions with respect to communicable diseases and infection control; and

(3) Comply with Maryland Occupational Safety and Health Bloodborne Pathogen Standards and the Centers for Disease Control and Prevention's guidelines for the prevention of communicable diseases and other health emergencies.

K. Suicide Prevention. The licensee shall establish and follow procedures for suicide prevention and intervention.

#### **.14 Child Abuse and Neglect**

A. Written Policy. The licensee shall establish and implement a written policy that sets out, in compliance with State law and regulations:

(1) The definitions of child abuse and neglect;

(2) The procedures to be followed if the licensee has reason to believe that a child has been subjected to abuse or neglect; and

(3) The penalties that the program may impose for failure to comply with the policy.

B. Reporting Requirements.

(1) An individual who notifies the local department of social services or appropriate law enforcement agency under this regulation also shall report and give all information required by State law to:

(a) The program administrator; or

(b) If the program administrator is the individual alleged to be responsible for the abuse or neglect, a specified officer of the licensee.

(2) The licensee may not prevent an individual from making a report of abuse or neglect or take disciplinary action against an individual for making in good faith a report of abuse or neglect.

(3) The licensee shall cooperate in the conduct of any investigation or proceeding brought as result of a report of abuse or neglect by:

(a) Allowing employees to participate in the investigation and to provide testimony without loss of leave, pay, or other benefits; and

(b) Disciplining employees who fail or refuse to report abuse or neglect when required to do so or do not cooperate in the investigation or provide testimony when requested.

(4) Within 48 hours after a licensee files a report of child abuse or neglect with the local department of social services or the appropriate law enforcement agency, or within 48 hours after it becomes known to the licensee that the report has been filed, the licensee shall:

(a) Submit a written report to the licensing agency informing it of the activity; and

(b) Unless inconsistent with the child's individual plan of care, inform the child's parent or legal guardian of the allegation.

(5) Within 10 days after a local department of social services makes a finding regarding a report that a child may have been subjected to abuse or neglect by an individual associated with the licensee, the licensee shall submit to the licensing agency a written final report indicating any necessary corrective action that the licensee will undertake and put into effect not more than 30 days after the final report

- C. **Employee's Signature.** The licensee shall ensure that as a condition of employment, all employees read and sign a statement acknowledging receipt of the policy established under §A of this regulation.
- D. **Administrative Leave.** Upon being notified of or making a report alleging that an employee has subjected a child to abuse or neglect, the licensee shall immediately place the employee on administrative leave and remove the employee from access to the children. This regulation does not prohibit a licensee from suspending without pay or discharging an employee alleged to have subjected a child to abuse or neglect.
- E. **Multidisciplinary Consultation.** When the local department of social services asks the program administrator to participate on a multidisciplinary case consultation team to investigate a report of child abuse or neglect and to help formulate a corrective action plan, the program administrator or designee shall participate on the team.
- F. **Posting Telephone Numbers.** The licensee shall post conspicuously the telephone number supplied by the local department of social services for reporting child abuse or neglect.

### **.15 Behavioral Interventions, Strategies, and Supports.**

A. **General Policies.**

(1) The licensee shall establish and follow written policies and procedures that:

(a) Are communicated to the child, the child's parent or legal guardian, program personnel, licensing agency, and the placing agency;

(b) Incorporate the principles of positive behavioral interventions, strategies and supports, and trauma-informed care into all prevention and intervention strategies;

(c) Specify the approved procedures for the administration of prevention and intervention strategies and supports;

(d) Identify the program personnel authorized to administer each form of prevention and intervention strategies and supports;

(e) Include the procedures for training program personnel in the use and administration of each form of prevention and intervention strategies and supports that incorporate the principles listed in §A(1)(b) of this regulation; and

(f) Annually review the forms of prevention and intervention strategies and supports.

(2) A licensee may not use the following as disciplinary measures:

(a) Physical, mental, and verbal abuse, or corporal punishment;

(b) Assignment of physically strenuous exercise or work;

(c) The withholding of:

(i) Food;

(ii) Water;

(iii) Sleep;

(iv) Mail;

(v) Family visits; or

(vi) Program participation other than recreation or leisure activities;

(d) Forced feeding of a child;

(e) Chemical restraints, unless in compliance with State law and ordered by a physician;

(f) Mechanical restraints, except as permitted by other applicable State regulations or ordered by a court of competent jurisdiction; or

(g) Physical restraint, except when failure to do so would result in harm to others or to the child.

(3) A program may not delegate behavioral interventions, strategies, and supports of a child to another child or group of children.

## B. Interventions Strategies.

(1) General Program Requirements. Program staff shall be encouraged to use an array of prevention and intervention strategies to increase adaptive behaviors or decrease targeted behaviors, as specified in the behavior intervention plan, that incorporate the following principles:

(a) Positive behavioral intervention strategies and supports;

(b) Trauma-informed care; and

(c) Individualized behavioral assessments and planning in accordance with COMAR 14.31.06.17.

(2) Program staff may use restraint only:

(a) After less restrictive or alternative approaches have been considered and:



(i) Attempted; or

(ii) Determined to be inappropriate;

(b) In a humane, safe, and effective manner;

(c) Without intent to harm or cause discomfort;

(d) When consistent with documented medical or psychological limitations and the child's individual plan of care; and

(e) If the staff member performing the restraint has current certification in the use of restraint via the training program used by the licensee that has been approved by the State.

(3) Nothing in this chapter shall limit the responsibilities of law enforcement, judicial authorities, or security personnel.

C. Safe Environment Plan.

(1) General. The program shall develop a safe environment plan during intake and admission. The safe environment plan shall be reviewed and updated in conjunction with the child's individual plan of care, or more frequently, as appropriate. The program shall partner with the child, the child's parent or legal guardian, as applicable, and the custodial agency to develop a plan to create and maintain a nonviolent and healing environment and to prevent the use of restraint. The safe environment plan shall be easily accessible to program personnel at all times.

(2) Unless otherwise documented in a plan, the safe environment plan shall include the following:

(a) Physical space that the program shall provide to make the child feel safe, comforted, and in control of the child's behavior;

(b) The triggers and situations that increase stress or fear and may cause the child to lose control of his or her behavior and how the child's loss of control of his or her behavior is manifested;

(c) The methods for calming or soothing that the child prefers and has found to be successful;

(d) The child's preferences regarding positive, nonphysical interventions, strategies, and supports if the child's level of agitation increases;

(e) The medication that is appropriate clinically and agreed to and prescribed by the child's treating physician that the child may choose to take voluntarily, if the child's level of agitation increases despite the use of the alternative interventions identified in the safe environment plan;

(f) Any medical information that can affect the safety of a restrictive intervention;

(g) Any trauma history that the child has experienced;

(h) Any preferences or contraindications to the debriefing process; and

(i) The time frame in which law enforcement will be notified in the event of a child being absent without leave, not to exceed time limits as specified in COMAR 14.31.06.16.

(3) The program shall ensure that all program personnel working directly with the child:

(a) Are fully briefed on each child's safe environment plan; and

(b) Honor the child's requests and preferences identified in the plan, unless clinically contraindicated in a particular situation.

(4) The treatment team shall:

(a) Review the safe environment plan with the child following any post-restraint debriefing, and at other times consistent with the program's policy, make any necessary changes identified by the child, staff, or both as appropriate; and

(b) Ensure that staff, the child's parent or legal guardian, and the custodial agency are informed of any subsequent modifications made to safe environment and individual plan of care.

D. Use of Time Out.

(1) Program personnel may use time-out to address a child's behavior if:

(a) The safe environment plan supports time-out;

(b) The child requests time-out;

(c) The child's behavior unreasonably interferes with the program activities; or

(d) The child's behavior constitutes an emergency, and time-out is necessary to protect a child or other person from imminent, serious, physical harm after other less intrusive interventions have failed or been determined to be inappropriate.

(2) A setting used for time out shall:

(a) Provide program personnel with the ability to see the child at all times;

(b) Provide adequate lighting, ventilation, and furnishings; and

(c) Be unlocked and free of structural barriers to prevent egress.

(3) Program personnel shall supervise a child placed in time-out and provide a child in time-out with:

- (a) An explanation of the behavior that resulted in the use of time-out; and
- (b) Explanation and instruction on the behavioral expectations when the child returns to the milieu.

(4) Each period of time-out shall be appropriate to the developmental level of the child and the degree of severity of the behavior, and may not exceed 30 minutes.

(5) A child's parent or legal guardian, the custodial agency, and program personnel may at any time request a meeting to address the use of time-out and to:

- (a) Conduct a functional behavioral assessment; and
- (b) Develop, review, or revise a child's plan of care.

E. Restraint.

(1) Physical Restraint.

- (a) The use of physical restraint must be in accordance with the approved behavior management system used by the licensee.
- (b) The use of prone restraint is prohibited in residential child care facilities.
- (c) The use of physical restraint is prohibited in residential child care facilities unless:
  - (i) The parent or legal guardian of a child has been notified before admission that the use of physical restraint may be necessary; and
  - (ii) There is an emergency situation and physical restraint is necessary to protect a child or other individuals from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate.
- (d) Physical restraint may be applied only by program personnel who have successfully completed State-approved training in the appropriate use of physical restraint consistent with §G of this regulation.
- (e) In applying physical restraint, program personnel may only use the least amount of force necessary to protect a child or other person from imminent, serious physical harm.
- (f) A physical restraint:
  - (i) Shall be removed as soon as the resident is calm; and
  - (ii) May not last longer than 30 minutes per occurrence or longer than the approved behavior management system used by the licensee.
- (g) Trained staff shall constantly monitor the use of restraint for the following:
  - (i) Proper technique;
  - (ii) Level of consciousness of the youth being restrained;
  - (iii) Breathing; and

(iv) Other safety factors.

(h) The program administrator or designee shall be contacted immediately after the initiation of the restraint.

(2) Mechanical Restraint.

(a) The use of mechanical restraint is prohibited in residential child care facilities, except as permitted in COMAR 14.31.07.08.

(b) Program personnel are not prohibited from using a protective or stabilizing device prescribed by a health care professional.

(3) The use of seclusion is prohibited in Maryland residential child care facilities.

(4) Referral to Team.

(a) If restraint is used, and the child's behavior intervention plan does not include the use of restraint the team specified in Regulation .17 A of this chapter shall meet within 5 business days of the incident to consider:

(i) The review of the safe environment plan;

(ii) The need for a functional behavioral assessment;

(iii) Reviewing or developing appropriate behavioral interventions; and

(iv) Revising or implementing a behavior intervention plan.

(b) If a child's behavior intervention plan includes the use of restraint, it shall specify how often the team shall meet to review or revise, as appropriate, the child's behavior intervention plan.

(c) When a team meets to review or revise a child's behavior intervention plan, the team shall consider:

(i) Existing health, physical psychological and psychosocial information;

(ii) Information provided by the parent or legal guardian and the custodial agency; and

(iii) Observations by program personnel and related service providers.

(d) The program shall provide the parent or legal guardian, the child, the custodial agency, and the child's attorney with written notice when a team proposes or refuses to initiate or change the child's behavior intervention plan to include the use of restraint.

(e) A parent or legal guardian or child may request an appeal through the program's grievance process in accordance with Regulation .09E of this chapter if the parent or legal guardian or child disagrees with the team's decision to propose, or refuse to initiate, or change the child's behavior intervention plan to use restraint.

(5) Documentation Requirements for the Use of Restraint. Documentation of events surrounding the utilization of restraint in the child's record shall include, but not be limited to:

- (a) Type of restraint used;
- (b) Rationale for the restraint and expected outcome of the intervention;
- (c) The safe environment plan or other less restrictive interventions, de-escalation techniques, or all of these utilized prior to the implementation of restraint and the child's response to each;
- (d) The child's response during and after the implementation of the restraint;
- (e) The length of time in restraint;
- (f) Description of the specific precipitating factors leading to the restraint, including:
  - (i) Description of observable behavioral, emotional, and physical characteristics of the child involved;
  - (ii) Degree of restriction or loss of privileges;
  - (iii) Any event, situation, or condition immediately preceding the behavior that prompted the use of restraint; and
  - (iv) The behavior that prompted the use of a restraint;
- (g) Specific location where the restraint occurred, and general activity occurring within the environment before the incident;
- (h) Staffing level, types of program personnel (male, female, unlicensed, licensed);
- (i) Unit capacity and unit population;
- (j) The names of the program personnel who observed the behavior that prompted the use of restraint;
- (k) The names and signatures of the program personnel implementing, observing, and monitoring the use of restraint;
- (l) A description of the restraint event, including:
  - (i) The child's behavior and reaction during the restraint; and
  - (ii) The name and signature of the administrator informed of the use of restraint;
- (m) Physical condition, including any observable or reportable injuries of the child during and after the restraint, including:
  - (i) Description of any injuries sustained;
  - (ii) On-site first aid intervention; and
  - (iii) Off-site medical treatment;
- (n) Medication, as identified in the child's safe environment plan, administered before, during, or after the restraint;
- (o) Date and time of the restraint; and

(p) Notification:

- (i) To the program administrator or designee;
- (ii) To the parent or legal guardian;
- (iii) To the placement agency; and
- (iv) To the licensing agency in writing, the information described in Regulation .18D of this chapter.

F. Debriefing

(1) Staff.

(a) Within 24 hours of the incident, program personnel involved in the incident and the clinical coordinator, Supervisor, or designee shall discuss and document the management of the incident by addressing the following:

- (i) The precipitating factors of the incident;
- (ii) Program personnel response to the incident;
- (iii) De-escalation techniques or less restrictive interventions attempted, or both, and the child's response to each;
- (iv) Timeliness of program personnel intervention;
- (v) Program personnel's ability to function as a team and improvements that could be made;
- (vi) Adequacy of program personnel response and need;
- (vii) Aspects of the incident that should be the focus for discussion for the team; and
- (viii) Other interventions that could have been used to prevent the restraint.

(2) Child.

(a) Within 24 hours of the incident unless contraindicated by the safe environment plan, the child involved in the incident and the program administrator or designee shall discuss and document the management of the incident by addressing the following:

- (i) The precipitating factors of the incident;
- (ii) Program personnel response to the incident;
- (iii) De-escalation techniques or less restrictive interventions attempted, or both, and the child's response to each;
- (iv) Timeliness of program personnel intervention;
- (v) Program personnel's ability to function as a team, and improvements that could be made;
- (vi) Adequacy of program personnel response, and need for additional staff;
- (vii) Aspects of the incident that should be the focus for discussion for the team; and
- (viii) Other interventions that could have been used to prevent the restraint.

(b) If the child declines to participate in the debriefing:

- (i) Program personnel shall document efforts to conduct the debriefing, efforts to engage the child in the process, and the reasons the child declined to participate; and

(ii) Negative consequences may not be imposed upon the child for nonparticipation.

G. Administrative Procedures.

(1) Each residential child care facility shall develop policies and procedures to address:

(a) A continuum of prevention and intervention strategies that incorporate the principles of positive behavioral interventions, strategies and supports, and trauma-informed care;

(b) The prevention of self-injurious behaviors;

(c) Methods for identifying and defusing potentially dangerous behavior;

(d) The use and documentation of time-out consistent with Regulation .15D of this chapter: and

(e) The use of restraint consistent with Regulation .15E of this chapter.

(2) Quality Assurance. Each residential child care facility shall develop a quality assurance process to:

(a) Ensure that each child's needs are addressed;

(b) Monitor and address the incident management findings, frequency, and types of restraints utilized;

(c) Implement measures to reduce the use of restraint; and

(d) Annually review policies and procedures, and provide them to program personnel and the parent or legal guardian.

(3) Training.

(a) Each residential child care facility shall provide training to program personnel on this chapter and the appropriate implementation of policies and procedures developed in accordance with §A of this regulation.

(b) The program personnel shall receive training on current professionally accepted practices and standards from a vendor whose training program has been approved by the State and which includes all of the following:

(i) Positive behavioral intervention strategies and supports;

(ii) Trauma-informed care; and

(iii) Restraint.

(c) Training shall be required:

(i) Before program personnel may work with children independently; and

(ii) At least annually.

(d) Each residential child care facility shall identify program personnel authorized to serve as a program wide resource to:

- (i) Assist with training on de-escalation techniques; and
- (ii) Ensure proper administration of time out and restraint.

(4) Monitoring and Compliance.

(a) Each residential child care facility shall develop policies and procedures on:

- (i) Monitoring the use of time out and restraint; and
- (ii) Receiving and investigating complaints regarding time out and restraint practices.

(b) The residential child care facility shall report the use of restraint to:

- (i) The parent or legal guardian within 24 hours of the incident unless otherwise specified in the safe environment plan by the parent or legal guardian;
- (ii) The placement agency;
- (iii) The licensing agency in writing, information described in Regulation. 8D of this chapter; and
- (iv) Child Protective Services, as required by Regulation .14 of this chapter.

(c) The licensing agency may monitor and request any information regarding any matter related to time-out or restraint implemented by a residential child care facility.

#### **.16 Absence Without Leave**

A. Written Policy. The licensee shall have and follow a written policy to govern its actions when a child is discovered to be absent without leave.

B. Child's Return. Unless otherwise specified in the child's individual plan of care, if the child has not returned to the program within 1 hour of the program discovering that the child is missing or unaccounted for, the licensee shall notify:

(1) The local law enforcement authority;

(2) The placing agency;

(3) The licensing agency; and

(4) The child's parent or legal guardian, unless inconsistent with the child's individual plan of care.

C. Notification. When a child who was missing or unaccounted for returns to the program, the licensee shall immediately notify:



- (1) The local law enforcement authority;
- (2) The child's parent or legal guardian;
- (3) The placing agency; and
- (4) The licensing agency.

### **.17 Admission, Individual Plan of Care, Behavior Intervention Plan, and Discharge.**

#### A. General Requirements.

(1) The licensee shall have and follow written policies regarding:

- (a) Admission;
- (b) Individual plan of care;
- (c) Behavior intervention plan;
- (d) Behavior support services; and
- (e) Discharge.

(2) The licensee shall form a team comprised of at least the following individuals to participate in the:

(a) Admission process:

- (i) A representative designated by the placing agency;
- (ii) Program staff responsible for the care and supervision of the child;
- (iii) Unless clearly inappropriate, the child; and
- (iv) If appropriate, the child's parent or legal guardian; and

(b) Development of the individual plan of care and the discharge plan:

- (i) A representative designated by the placing agency;
- (ii) A human service professional from the program considering the admission;
- (iii) Program staff responsible for the care and supervision of the child;
- (iv) The child's parent or legal guardian, if consistent with the child's permanency plan; and

(v) Unless clearly inappropriate, the child.

(3) Each team shall:

(a) Document those present and participating; and

(b) Indicate in the individual case record the reason, if known, why an invited individual did not attend.

#### B. Admission.

(1) The licensee shall include in its admission policy a:

(a) Statement of nondiscrimination consistent with Title VII of the Civil Rights Act and State Government Article, Title 20, Annotated Code of Maryland;

(b) Provision for an assessment to determine the child's needs and the licensee's ability to meet them; and

(c) Method for notifying, when appropriate, a child's parent or legal guardian if the child is self-admitted.

(2) The licensee may not admit a child referred by an out-of-State placing agency without documentation that the agency has initiated actions to abide by any applicable interstate compact.

(3) The licensee may not admit into care:

(a) More children than the number specified in its license;

(b) Children outside of the age range specified in the license; or

(c) Children not of the gender specified in the license.

(4) In order to admit a child whose characteristics and needs do not fit the profile approved by the licensing agency, the licensee shall document that it has:

(a) Obtained oral permission from the licensing agency before the child's admission; and

(b) Requested written documentation of the licensing agency's permission within 5 days of the child's placement, which describes:

(i) The reasons for the placement; and

(ii) How the program will ensure adequate and appropriate care for the child.

(5) Except for emergency placements, the licensee shall admit a child only upon receipt of at least:

- (a) A social history or predisposition report, to include any history of abuse or neglect;
- (b) A health history that is not older than 6 months, including, if applicable, a list of currently prescribed medications;
- (c) A mental health screening report that:
  - (i) Includes screening for the child's risk of suicide; and
  - (ii) Was completed in less than 72 hours before the child's placement;
- (d) An educational history;
- (e) Medical insurance documentation;
- (f) If required by federal or State law, any psychological, psychiatric, or developmental assessment that is not older than 12 months;
- (g) Emergency telephone numbers to contact the child's parent or legal guardian;
- (h) If applicable, a document that specifies a guardian or custodian of the child other than the biological parent;
  - (i) The child's permanency plan;
- (j) Authorizations necessary for providing care, including:
  - (i) Medical, dental, and behavioral health authorizations for routine and emergency care;
  - (ii) Any applicable court order or master's recommendation; and
  - (iii) Applicable non-court order for shelter care.
- (6) For emergency placements, the licensee and the placing agency shall ensure that the licensee receives the documents specified in §§A, B, and C of this regulation within 24 hours of the child's placement.
- (7) If it has the discretion to refuse to admit a child referred by the placing agency, the licensee shall process each referral promptly and submit to the placing agency its decision on the referral within 10 days after receipt.
- (8) The licensee shall:
  - (a) Examine each child upon admission;
  - (b) Document in the child's individual case record any illness, fever, rash, bruise, or injury; and

(c) Take appropriate action as necessary.

(9) Within 3 days after admission, the licensee shall include in a child's individual case record:

(a) A preliminary, individualized assessment of the child's needs performed by a human service professional;

(b) A safe environment plan; and

(c) Any document listed in §B(4) of this regulation not received before the child's placement.

C. Individual Plan of Care. The licensee shall require the team convened pursuant to §A(2)(b) of this regulation:

(1) To develop for each child, within 30 days after admission, an individual plan of care that includes:

(a) An evaluation that meets the requirements of the Early and Periodic Screening, Diagnosis and Treatment program;

(b) If appropriate, a behavior intervention plan as defined in §D of this regulation;

(c) Measurable objectives with time frames leading to the achievement of goals;

(d) Implementation dates and strategies;

(e) Individuals responsible for providing the supports, services, implementation, and monitoring of the plan;

(f) Documentation indicating whether or not the child and parent or legal guardian agree with the plan;

(g) Education, including special education and related services to implement the individualized education program of a student as required under the Individuals With Disabilities Education Act;

(h) Family relationship;

(i) Health care;

(j) Life skills development;

(k) Personal, emotional, and social development;

(l) Recreation plan;

(m) Vocational training;

- (n) The placing agency's permanency plan; and
- (o) Other areas as appropriate; and
- (2) To execute the:
  - (a) Review and update of every child's individual plan of care at least every 90 days;
  - (b) Modification of the individual plan of care as required by the child's needs, interests, and circumstances; and
  - (c) Documentation of monthly progress toward achievement of goals and estimated length of stay.

#### D. Behavior Plan.

- (1) The licensee shall have a comprehensive written policy that identifies the process by which a behavior intervention plan is determined to be appropriate.
- (2) The licensee shall ensure that a behavior intervention plan is developed for each child for whom it is appropriate that includes:
  - (a) An assessment of each challenging behavior as identified in the individual plan of care;
  - (b) A description of the function of current behaviors including their frequency and severity;
  - (c) The behavioral objectives for the child including:
    - (i) Criteria for determining achievement of the objectives established;
    - (ii) A description of the adaptive skills to be learned by a child that serve as alternatives to behaviors that present a danger to self or serious bodily harm to others;
    - (iii) A description of the adaptive skills to be learned by a child that serve as functional alternatives to the challenging behavior or behaviors to be decreased;
    - (iv) Identification of the individual or individuals responsible for monitoring the behavior intervention plan;
    - (v) The data to be collected to assess progress towards meeting the behavior intervention plan's objectives;
    - (vi) Documentation for the use of physical restraint, the reason for its use, and the length of time used; and
    - (vii) For licensees of the Department of Health and Mental Hygiene, documentation for the use of mechanical restraint, the reason for its use, and the length of time used;

- (d) Take into account the medical condition of the child; and
  - (e) Describe the treatment techniques and when the techniques are to be used.
- (3) Before implementation, the licensee shall ensure that each behavior intervention plan that includes the use of restraints includes the written informed consent of:
- (a) The child, when appropriate;
  - (b) The child's parent or legal guardian, when appropriate; and
  - (c) The placing agency's designee.
- (4) If the program is licensed to serve children with developmental disabilities, each behavior intervention plan that includes the use of restraints shall be approved by the standing committee established under COMAR 14.31.07.08 before the plan's implementation.

#### E. Behavior Support Services.

(1) A licensee who contracts for behavior support services as determined by the behavior intervention plan shall ensure that its contractor:

- (a) Meets the requirements of this chapter; and
- (b) Is knowledgeable about the licensing agency's service delivery system.

(2) Behavior support services may include:

- (a) Behavioral consultation;
- (b) Temporary augmentation of staff;
- (c) Behavioral training; and
- (d) Behavioral respite services.

(3) In addition to the training requirements in COMAR 10.22.02.10—.11 for licensees of the Department of Health and Mental Hygiene and the training and requirements of this chapter, the licensee shall ensure that staff who provide behavior support services, before being assigned independent duties, receive training in the:

- (a) Principles of behavioral change; and
- (b) Use of a specific behavior management technique as outlined in the child's behavior intervention plan.

#### F. Discharge.

(1) For planned discharges, the licensee shall:

(a) Except for emergency shelter placement, and at least 30 days before a planned discharge, prepare a discharge plan which includes:

(i) The name, address, telephone number, and relationship of the individual with whom the child will be residing upon discharge;

(ii) A statement of unmet identified and continuing needs including but not limited to behavioral and somatic health, education, family and peer relationships, employment, behavior, medications, and recommendation for follow-up treatment; and

(b) Within 30 calendar days after discharge, submit to the placing agency a discharge summary which includes:

(i) A final summary of the child's performance in the program;

(ii) A summary of the child's health, dental, optical, and behavioral health records; and

(iii) A summary of services provided to the child, including behavioral and somatic health, education, family and peer relationships, employment, behavior, medications, and recommendation for follow-up treatment.

(2) For unplanned discharges, the licensee shall:

(a) Provide at least 72 hours' notice to the placing agency unless there is imminent risk of harm to self or others;

(b) At the time of discharge, provide to the placement agency a discharge plan which includes:

(i) Specific details of the reason for discharge; and

(ii) A statement of unmet and continuing needs; and

(c) Within 30 calendar days after discharge, submit to the placing agency a discharge summary which includes:

(i) A final summary of the child's performance in the program;

(ii) A final summary of the child's medical, dental, optical, and behavioral health records; and

(iii) A summary of services provided to the child.

## **.18 Reports and Records**

A. General Requirements. The licensee shall:

(1) Submit reports and maintain records as directed by the licensing and contracting agencies in order to ensure compliance with these regulations and other federal and State laws; and

(2) Comply with requirements for incident reporting as specified by the licensing and contracting agencies.

**B. Confidentiality of Records. The licensee shall:**

(1) Have and follow written procedures for the maintenance and security of individual case records and health records in accordance with State and federal law, which include:

(a) The identity of the staff persons responsible for the custody and maintenance of the records;

(b) A prohibition on the release of records except in accordance with law or contractual obligation; and

(c) A notice that employees may not disclose or knowingly permit the disclosure of any information concerning the child or the child's family to any unauthorized person;

(2) Destroy records, in accordance with timelines established by State and federal law, in a manner that will preserve their confidentiality; and

(3) Ensure that if the program's parent corporation dissolves, its individual case records concerning children served by the program are given to the placing agency.

**C. Record Maintenance. The licensee shall:**

(1) Maintain a register of the children currently in the program which includes the child's:

(a) Name;

(b) Sex;

(c) Date of birth;

(d) Placing agency; and

(e) Dates of admission and anticipated discharge;

(2) Retain for the later of 5 years after discharge of a child, or 3 years after the child becomes 18 years old, individual case records;

(3) Retain financial records for at least 6 years from the date of their creation or after any contract with the State terminates; and

(4) Protect all documents against fire damage, theft, and unauthorized disclosure.





**.19 Program Planning, Evaluation, and Quality Improvement**

A. Program Planning and Evaluation. The licensee shall have a formal process for program planning and evaluation which includes at least:

(1) A clearly stated written mission for the program approved by the board of directors;

(2) A set of measurable goals and objectives which is based upon the mission, program, population served, and State mandated outcome measures;

(3) A periodic review of achievement of goals and objectives; and

(4) A correction plan approved by the Board for unmet goals.

B. Program Quality Improvement. The licensee shall:

(1) Develop and implement an ongoing quality improvement plan; and

(2) Annually review and evaluate the quality and effectiveness of the services provided.

## Administrative History

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**COMAR 01.04.07 revised and recodified to COMAR 14.31.06 as an emergency provision effective June 30, 2005 (32:15 Md. R. 1314); revised and recodified permanently effective November 24, 2005 (32:23 Md. R. 1828)**

Regulation .02 amended effective June 10, 2013 (40:11 Md. R. 975)

Regulation .03B amended effective May 19, 2008 (35:10 Md. R. 973); June 10, 2013 (40:11 Md. R. 975)

Regulation .04 amended effective May 19, 2008 (35:10 Md. R. 973); June 10, 2013 (40:11 Md. R. 975)

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Regulation .06 amended effective June 10, 2013 (40:11 Md. R. 975)

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