

Board of Education Agenda Item

Item: B.

Date: March 29, 2007

Topic: First Review of Proposed Revisions to the Standards for Interdepartmental Regulation of Children's Residential Facilities

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Origin:

Topic presented for information only (no board action required)

Board review required by
 State or federal law or regulation
 Board of Education regulation
 Other: _____

Action requested at this meeting Action requested at future meeting: _____

(date)

Previous Review/Action:

No previous board review/action

Previous review/action
date _____
action _____

Background Information:

The proposed regulations would replace 22 VAC 42-10-10 et seq., *Standards for Interdepartmental Regulation of Children's Residential Facilities (Interdepartmental Standards)*. The state Boards of Education; Mental Health, Mental Retardation and Substance Abuse Services; Juvenile Justice; and Social Services are the promulgating entities for the proposed regulation. A review of the proposed regulation is on the April and May agenda for the other regulatory boards. The four licensing agencies and representatives of residential facilities developed the Interdepartmental Standards for use in regulating children's residential facilities. These standards are designed to provide protection and treatment/programming to vulnerable children in out-of-home care.

The Office of Interdepartmental Regulation coordinates the children's residential regulatory activities conducted by the four agencies. It assigns a lead regulatory agency to conduct all licensing activities. The lead regulatory agency is assigned according to the primary focus of the residential program, the services to be provided, the qualifications of the staff, and the population to be served. More than one agency may have regulatory authority for a facility, but the lead agency is responsible for facilitating licensing visits, investigating complaints, and issuing the license. The Office of Interdepartmental Regulation also facilitates the development of regulations and conducts training for regulatory personnel and providers of children's residential services on a variety of topics. That office also processes background checks for residential facilities licensed by the four regulatory agencies.

The changes made to this regulation reflect the changes to the children's residential facility industry in recent years and the changes in federal requirements regarding record keeping and behavior management. The changes also incorporate the requirements found in Chapters 168 and 781 of the 2006 Acts of Assembly and replaces the emergency regulation. The new regulation will also better ensure that safeguards are in place to protect residents of children's residential facilities and services are appropriate for these children. The new regulation will assure that these children receive an acceptable level of care and education.

Children placed in residential care typically need a higher level of service than can be provided in a foster home. It is important that staffs who supervise these children have the appropriate knowledge and experience to make decisions regarding their care. The appropriate number of trained staff on duty is needed to give the children adequate time and attention to meet their needs. Staff also needs the time to plan a structured program of care for the residents and to document planning and decision-making for each resident.

The Office of Interdepartmental Regulation receives an average of 35 inquiries each month to operate a children's residential facility. This represents a substantial increase compared to past years of approximately 60 to 70 requests annually. Today's requests come from private individuals who may not be experienced with children's residential settings.

The Joint Legislative Audit and Review Commission's (JLARC) December 2006 report, *Evaluation of Children's Residential Services Delivered Through the Comprehensive Services Act* recommends consideration of collecting licensure fees to provide staff training. The JLARC report states that training of facility staff is not adequately addressed in the current standards. Upon further review of the standards by the four regulatory agencies and the Interdepartmental Advisory Committee, which consists of representatives of residential facilities, and review of recommendations from the JLARC report, additional revisions were made to provide added protection for children in residential care.

Attaining and maintaining compliance with the Interdepartmental Standards are prerequisites for issuance and maintenance of a license or certificate to operate. Failure to maintain compliance with the standards or applicable requirements of the Code of Virginia constitutes grounds for revocation of a license or certificate.

The Code of Virginia § 22.1-323 authorizes the Board of Education to issue licenses to residential schools for students with disabilities. The Code states that no person shall open, operate or conduct any school for students with disabilities in this Commonwealth without a license to operate such school issued by the Board of Education. A license shall be issued for a school if it is in compliance with the regulations of the Board pursuant to Chapter 16, Schools for Students with Disabilities, of the Code of Virginia.

Summary of Major Elements

Substantive changes to the regulations include the following:

- Requires changing the process to issue licenses to facilities regulated by DOE, DMHMRSAS, and DSS to be able to change the type of license when compliance is an issue (pp. 12-13)
- Requires application fees (p. 13)
- Adds the option of summary suspension of the license or certificate to operate during the proceeding for revocation or denial (p.15)
- Requires increased qualifications of the staff who make administrative and supervision decisions at the facility and to requirements ensuring that a qualified staff person is available to make decisions (p. 25)
- Ensures that educational services are provided to the child in a timely manner (p. 58)
- Clarifies recordkeeping requirements (pp.22, 38, and 42)
- Improves medical treatment and medication services according to guidance received from medical professionals (pp. 48-50)
- Changes staff supervision ratios to better meet current practice and child advocacy guidelines (pp. 52-53)
- Emphasizes behavior support and helping residents to manage their own behavior rather than emphasizing behavior management (p. 54)
- Requires recreation guidelines to ensure better planning and supervision during overnight trips or activities (pp. 59-60)
- Strengthens emergency procedures requirements to ensure better preparation for an emergency (p. 65)

- Adds requirements for specialized independent living programs (p. 68)
- Adds requirements for mother/baby programs (p. 70)
- Adds requirements to camping programs and programs that take residents on adventure activities (pp. 72-73)
- Requires each facility to name a community liaison person and to train staff and have policies and procedures regarding positive community relations (p. 60)

Superintendent's Recommendation:

The Superintendent of Public Instruction recommends that the Board of Education waive first review and approve the proposed revisions to the standards for interdepartmental regulation of children's residential facilities and authorize the staff of the Department of Education to proceed with the next steps required by the Administrative Process Act. This action will repeal 22 VAC 42-10-10 et. seq. and adopt 22 VAC 42-11-10 et. seq.

Impact on Resources:

The proposed changes will have a modest impact on Department of Education staff responsibilities. No direct fiscal impact for the Department is anticipated.

Timetable for Further Review/Action:

- First review of the proposed regulations by Boards of the Departments of Mental Health, Mental Retardation, and Substance Abuse Services, (April 3, 2007); Juvenile Justice, (April 11, 2007); and Social Services, (April 18, 2007)
- May 28, 2007, proposed beginning of 60-day public comment period
- Proposed review of final regulations by Boards of the Departments of Juvenile Justice, (September 12, 2007); Education, (September 26, 2007); Mental Health, Mental Retardation, and Substance Abuse Services (October 4, 2007); and Social Services, (October 17, 2007)

Note: Some technical edits will be made to the proposed regulations prior to submission for publication under the APA.

DRAFT

*STANDARDS FOR
INTERDEPARTMENTAL
REGULATION
OF CHILDREN'S
RESIDENTIAL
FACILITIES*

Commonwealth of Virginia

Department of Education

Department of Juvenile Justice

Department of Mental Health, Mental
Retardation and Substance Abuse Services

Department of Social Services

Final Draft

CHAPTER 10
PART I INTRODUCTION

22 VAC 42-11-10. Definitions

_____The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Allegation" means an accusation that a facility is operating without a license or receiving public funds for services it is not certified to provide.

"Annual" means within 12 months of the previous event or occurrence.

"Applicable state regulation" means any regulation which the promulgating state agency determines applies to the facility. The term includes, but is not necessarily limited to modules, standards, and other regulations promulgated by the Departments of Education; Health; Housing and Community Development; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; or other state agency.

"Applicant" means the person, corporation, partnership, association, or public agency which has applied for a license or certificate.

"Application" means a document completed by the facility to furnish the regulatory authority details about the facility's operations and includes certifications that the facility understands and intends to comply with regulatory requirements. An application includes inspection reports necessary to verify compliance with applicable requirements of other state agencies. An application is complete when all required information is provided and the application is signed and dated by the individual legally responsible for operation of the facility.

"Aversive stimuli" means physical forces (e.g. sound, electricity, heat, cold, light, water, or noise) or substance (e.g. hot pepper, pepper sauce, or pepper spray) measurable in duration and intensity which when applied to an individual are noxious or painful to the individual, but in no case shall the term "aversive stimuli" include striking or hitting the individual with any part of the body or with an implement or pinching, pulling, or shaking the individual.

"Behavior support" means those principles and methods employed by a provider to help a child achieve positive behavior and to address and correct a child's inappropriate behavior in a constructive and safe manner, in accordance with written policies and procedures governing program expectations, treatment goals, child and staff safety and security, and the child's service plan.

"Behavior support assessment" means identification of a resident's behavior triggers, successful intervention strategies, anger and anxiety management options for calming, techniques for self-

management, and specific goals that address the targeted behaviors that lead to emergency safety interventions.

"Body cavity search" means any examination of a resident's rectal or vaginal cavities except the performance of medical procedures by medical personnel.

"Case record" or "Record" means up to date written or automated information relating to one resident. This information includes social data, agreements, all correspondence relating to care of the resident, service plan with periodic revisions, aftercare plans and discharge summary, and any other data related to the resident.

"Child" means any person legally defined as a child under state law. The term includes residents and other children coming in contact with the resident or facility (e.g. visitors). When the term is used, the requirement applies to every child at the facility regardless of whether the child has been admitted to the facility for care (e.g. staff/child ratios apply to all children present even though some may not be residents).

"Child-placing agency" means any person licensed to place children in foster homes or adoptive homes or a local board of public welfare or social services authorized to place children in foster homes or adoptive homes.

"Child with special needs" means a child in need of particular services because the child has mental retardation, a developmental disability, mental illness, emotional disturbance, a substance abuse problem, is in need of special educational services, or requires security services.

"Child with a visual impairment" means one whose vision, after best correction, limits the child's ability to profit from a normal or un-modified educational or daily living setting.

"Children's residential facility " or "facility" means a publicly or privately operated facility, other than a private family home, where 24-hour per day care is provided to children separated from their legal guardians and which is required to be licensed or certified by the *Code of Virginia* except:

1. Any facility licensed by the Department of Social Services as a child-caring institution as of January 1, 1987, and which receives no public funds; and

2. Acute-care private psychiatric hospitals serving children that are licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services under Rules and Regulations for the Licensing of Providers of Mental Health, Mental Retardation and Substance Abuse Services, 12 VAC 35 105-10 et. seq.

"Complaint" means an accusation against a licensed or certified facility regarding an alleged violation of standards or law.

"Corrective action plan" means violations documented by the regulatory authority and the facility's corrective action to the documented violations within a specified time frame.

"Confined in post-dispositional detention" means that a court has

sentenced the juvenile to a detention home for a period exceeding 30 days as found in §16.1-284.1.B in the *Code of Virginia*.

"Contraband" means any item prohibited by law or by the rules and regulations of the agency, or any item which conflicts with the program or safety and security of the facility or individual residents.

"Corporal punishment" means punishment administered through the intentional inflicting of pain or discomfort to the body through actions such as, but not limited to, (i) striking or hitting with any part of the body or with an implement; (ii) through pinching, pulling, or shaking; or (iii) through any similar action which normally inflicts pain or discomfort.

"Day" means calendar day unless the context clearly indicates otherwise.

"Detention home" or "secure detention" means a local, regional or state, publicly or privately operated secure custody facility which houses juveniles who are ordered detained pursuant to the *Code of Virginia*. The term does not include juvenile correctional centers.

"DMHMRSAS" means the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"DOE" means the Department of Education.

"DJJ" means the Department of Juvenile Justice.

"DSS" means the Department of Social Services.

"Emergency" means a sudden, generally unexpected occurrence or set of circumstances demanding immediate action. Emergency does not include regularly scheduled time off for permanent staff or other situations which should reasonably be anticipated.

"Emergency admission" means the sudden, unplanned, unexpected admittance of a child who needs immediate care except self admittance to a temporary care facility or a court ordered placement.

"Goal" means expected results or conditions that usually involve a long period of time and which are written in behavioral terms in a statement of relatively broad scope. Goals provide guidance in establishing specific short-term objectives directed toward the attainment of the goal.

"Good character and reputation" means findings have been established and knowledgeable and objective people agree that the individual maintains business or professional, family and community relationships which are characterized by honesty, fairness, truthfulness, and dependability, and has a history or pattern of behavior that demonstrates that the individual is suitable and able to care for, supervise, and protect children. Relatives by blood or marriage, and persons who are not knowledgeable of the individual, such as recent acquaintances, shall not be considered objective references.

"Group home" means a children's residential facility that is a

community-based, home-like single dwelling, or its acceptable equivalent, other than the private home of the operator, and serves up to 12 residents.

"Health record" means the file maintained by a provider which houses personal health information.

"Human research" means any systematic investigation utilizing human subjects which may expose such human subjects to physical or psychological injury as a consequence of participation as subjects and which departs from the application of established and accepted therapeutic methods appropriate to meet the subjects' needs.

"Immediately" means directly without delay.

"Independent living program" means a competency-based program that is specifically approved to provide the opportunity for the residents to develop the skills necessary to live successfully on their own following completion of the program.

"Individualized service plan" means a written plan of action developed, and modified at intervals, to meet the needs of a specific resident. It specifies measurable short and long-term goals, objectives, strategies and time frames for reaching the goals and the individuals responsible for carrying out a plan.

"Interdepartmental standards" means the standards for residential care which are common to the departments and which must be met by a children's residential facility in order to qualify for a license or certificate.

"Juvenile correctional center" means a secure custody facility operated by, or under contract with, the Department of Juvenile Justice to house and treat persons committed to the department.

"Legal guardian" means the natural or adoptive parents or other person, agency, or institution that has legal custody of a child.

"License or certificate" means a document verifying approval to operate a children's residential facility and which indicates the status of the facility regarding compliance with applicable state regulations.

"Live in staff" means staff who are required to be on duty for a period of 24 consecutive hours or more during each work week.

"Living Unit" means the space in which a particular group of children in care of a residential facility reside. A living unit contains sleeping areas, bath and toilet facilities, and a living room or its equivalent for use by the residents of the unit. Depending upon its design, a building may contain one living unit or several separate living units.

"Mechanical restraint" means the use of an approved mechanical device that involuntarily restricts the freedom of movement or voluntary functioning of a limb or portion of a person's body as a means to control his physical activities when the individual receiving services does not have the ability to remove the device.

"Medication error" means that an error has been made in administering a medication to a resident when any of the following occur: (i) the wrong medication is given to a resident; (ii) the wrong resident is given the medication; (iii) the wrong dosage is given to a resident; (iv) medication is given to a resident at the wrong time or not at all; and (v) the proper method is not used to give the medication to a resident. A medication error does not include a resident's refusal of offered medication.

"Objective" means expected short-term results or conditions that must be met in order to attain a goal. Objectives are stated in measurable, behavioral terms and have a specified time for achievement.

"On duty" means that period of time during which a staff person is responsible for the supervision of one or more children.

"Parent" means a natural or adoptive parent or a surrogate parent appointed pursuant to DOE's regulations governing special education programs for students with disabilities. "Parent" means either parent unless the facility has been provided evidence that there is a legally binding instrument, a state law or a court order governing such matters as divorce, separation, or custody, which provides to the contrary.

"Pat down" means a thorough external body search of a clothed resident.

"Personal health information" means the information that encompasses the universe of oral, written or otherwise recorded information that is created or received by an entity and relating to either an individual's physical or mental health or the provision of or payment for health care to an individual.

"Pharmacological restraint" means the use of a medication that is administered involuntarily for the emergency control of an individual's behavior when the administered medication is not a standard treatment for the individual's medical or psychiatric condition when that individual's behavior places him or others at imminent risk.

"Physical restraint" (also referred to as a "manual hold") means use of a physical intervention or "hands-on" hold to prevent an individual from moving his body when that individual's behavior places him or others at imminent risk.

"Placement" means an activity by any person which provides assistance to a parent or legal guardian in locating and effecting the movement of a child to a foster home, adoptive home, or to a children's residential facility.

"Premises" means the tracts of land on which any part of a residential facility for children is located and any buildings on such tracts of land.

"Provider or Licensee" means the person, corporation, partnership, association, or public agency to whom a license or certificate is

issued and who is legally responsible for compliance with the standards and statutory requirements relating to the facility.

"Regulatory authority" means the department or state board that is responsible under the *Code of Virginia* for the licensure or certification of a children's residential facility.

"Resident" means a person admitted to a children's residential facility for supervision, care, training or treatment on a 24-hour per day basis.

"Respite care facility" means a facility that is specifically approved to provide short-term, periodic residential care to children accepted into its program in order to give the legal guardians temporary relief from responsibility for their direct care.

"Rest day" means a period of not less than 24 consecutive hours during which a staff person has no responsibility to perform duties related to the facility.

"Right" is something to which one has a legal or contractual claim.

"Routine admission" means the admittance of a child following evaluation of an application for admission and execution of a written placement agreement.

"Rules of conduct" means a listing of rules or regulations which is maintained to inform residents and others about behaviors which are not permitted and the consequences applied when the behaviors occur.

"Sanitizing agent" means any substance approved by the Environmental Protection Agency to destroy bacteria.

"Seclusion" means the involuntary placement of an individual alone, in an area secured by a door that is locked or held shut by a staff person, by physically blocking the door, or by any other physical or verbal means so that the individual cannot leave it.

"Secure custody facility" means a detention home or a juvenile correctional center.

"Self-admission" means the admittance of a child who seeks admission to a temporary care facility as permitted by Virginia statutory law without completing the requirements for "routine admission."

"Severe weather" means extreme environment or climate conditions which pose a threat to the health, safety, or welfare of residents.

"Shall" means an obligation to act is imposed.

"Shall not" means an obligation not to act is imposed.

"Standard" means a statement which describes in measurable terms a required minimum performance level.

"Strategies" means a series of steps and methods used to meet goals and objectives.

"Strip search" means a visual inspection of the body of a resident when that resident's outer clothing or total clothing is removed and an inspection of the removed clothing. Strip searches are conducted for the detection of contraband.

"Structured Program of Care" means a comprehensive planned daily routine including appropriate supervision that meets the needs of each resident both individually and as a group.

"Student/intern" means an individual who simultaneously is affiliated with an educational institution and a residential facility. Every student/intern who is not an employee is either a volunteer or contractual service provider depending upon the relationship among the student/intern, educational institution, and facility.

"Systemic deficiency" means violations documented by the regulatory authority which demonstrate defects in the overall operation of the facility or one or more of its components.

"Target population" means individuals with a similar, specified characteristic or disability.

"Temporary care facility" means a facility or an emergency shelter specifically approved to provide a range of services, as needed, on an individual basis not to exceed 90 days except that this term does not include secure detention facilities.

"Temporary contract worker" means an individual who is not a direct salaried employee of the provider but is employed by a third party and is not a consistently scheduled staff member.

"Therapy" means provision of direct diagnostic, preventive and treatment services where functioning is threatened or affected by social and psychological stress or health impairment.

"Time out" means the involuntary removal of an individual by a staff person from a source of reinforcement to a different, open location for a specified period of time or until the problem behavior has subsided to discontinue or reduce the frequency of problematic behavior.

"Treatment" means individually planned, sound, and therapeutic interventions that are intended to improve or maintain functioning of an individual receiving services in those areas that show impairment as the result of mental disability, substance addiction, or physical impairment. In order to be considered sound and therapeutic, the treatment must conform to current acceptable professional practice.

"Variance" means temporary or permanent waiver of compliance with a standard or portion of a standard, or permission to meet the intent of the standard by a method other than that specified in the standard, when the regulatory authority, in its sole discretion, determines: (i) enforcement will create an undue hardship; and (ii) resident care will not be adversely affected. The denial of a request for a variance is appealable when it leads to the denial or revocation of a license or certificate.

"Wilderness program" means a facility specifically approved to provide a primitive camping program with a nonpunitive environment and an experience curriculum for residents nine years of age and older who cannot presently function in home, school, and community. In lieu of or in addition to dormitories, cabins or barracks for housing residents, primitive campsites are used to integrate learning, mentoring, and group process with real living needs and problems for which the resident can develop a sense of social responsibility and self worth.

22 VAC 42-11-20. Interdepartmental Cooperation.

The Departments of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services shall assist and cooperate with each other in the licensing and certification of children's residential facilities.

22 VAC 42-11-30. Applications.

A. Initial applications

1. A completed application includes, but is not limited to, an initial application form; proposed working budget for the year showing projected revenue and expenses for the first year of operation and a balance sheet showing assets and liabilities; evidence of financial resources, or, a line of credit sufficient to cover estimated operating expenses for 90 days unless the facility is operated by a state or local government agency, board, or commission; a description of the program; a proposed staffing/supervision plan including the staff information sheet; copies of all job descriptions; evidence of the applicant's authority to conduct business in Virginia; copy of floor plan with dimensions of rooms; a certificate of occupancy; current health inspection; evidence of consultation with state or local fire prevention authorities; a list of board members, if applicable; three references for the applicant; and if required by the regulatory authority, references for three officers of the board if applicable. This information must be submitted to and approved by the lead regulatory agency in order for the application to be considered complete.
2. All initial applications which are not complete within 12 months will be closed.
3. Facilities operated by state or local government agencies, boards, and commissions shall submit evidence of sufficient funds to operate including a working budget showing appropriated revenue and projected expenses for the coming year.
4. Currently licensed providers must demonstrate that they are operating in substantial compliance with applicable regulations before new facilities operated by the same provider will be licensed.

B. Renewal applications

A completed application for renewal of a facility's license or certificate shall be submitted within 30 days after being notified to submit a renewal application.

22 VAC 42-11-40. The Investigation.

The regulatory authority or regulatory authorities will arrange and

conduct an on-site inspection of the facility; a thorough review of the services; and investigate the character, reputation, status, and responsibility of the applicant.

22 VAC 42-11-50. Review of Facilities.

A. Representatives of the departments shall make announced and unannounced reviews during the effective dates of the license/-certificate. The purpose of these reviews is to monitor compliance with applicable standards.

B. The regulatory authority shall notify relevant local governments and placing and funding agencies, including the Office of Comprehensive Services, of multiple health and safety or human rights violations in children's residential facilities when such violations result in the lowering of the license or certificate to provisional status.

22 VAC 42-11-60. Posting of Information.

A. Information concerning the application for initial licensure of children's residential facilities shall be posted to the Interdepartmental Regulation web site, by locality.

B. An accurate listing of all licensed or certified facilities including information on renewal, denial, or provisional licensure, services and identification of the lead regulatory authority shall be posted to the Interdepartmental Regulation web site, by locality.

22 VAC 42-11-70. General Requirements.

A. The facility shall demonstrate full compliance with sufficient applicable standards to clearly demonstrate that its program and physical plant provide reasonably safe and adequate care while approved plans of action to correct findings of noncompliance are being implemented and there are no noncompliances which pose an immediate and direct danger to residents.

B. Corporations sponsoring residential facilities for children shall maintain their corporate status in accordance with Virginia law.

C. The facility shall comply with the terms of its license or certificate.

D. A license or certificate is not transferable and automatically expires when there is a change of ownership or sponsorship.

E. The current license or certificate shall be posted at all times in a place conspicuous to the public.

F. A license or certificate shall not be issued to a facility when noncompliance poses an immediate danger to the resident's life, health, or safety.

G. Intermediate sanctions authorized by statute may be imposed at the discretion of the regulatory authorities.

H. Each facility shall self-report within 72 hours, to the lead regulatory agency, lawsuits against or settlements with residential facility operators relating to the health and safety or human rights of residents and any criminal charges against staff that may have been made relating to the health and safety or human rights of residents.

I. The provider shall comply with all other applicable federal, state, or local laws and regulations.

J. The provider's current policy and procedure manual shall be readily accessible to all staff.

K. The provider shall comply with their own policies and procedures.

22 VAC 42-11-80. Written corrective action plans

A. If there is noncompliance with any of these standards during an initial or ongoing review or investigation, the regulatory authority shall issue a licensing report describing the noncompliance and requesting the provider to submit a corrective action plan.

B. The provider shall submit to the regulatory authority and implement a written corrective action plan for each standard found to be in noncompliance as identified on the licensing report.

C. The plan of corrective action shall include a:

1. Description of each corrective action to be taken and person responsible for implementation;
2. Date of completion for each action; and
3. Signature of the person responsible for oversight of the implementation of the pledged corrective action.

D. The provider shall submit the corrective action plan to the regulatory authority within 15 business days of the issuance of the licensing report. Extensions may be granted by the regulatory authority when requested prior to the due date, but extensions shall not exceed an additional 10 business days. An immediate corrective action shall be required if the regulatory authority determines that the violations are related to the health, safety or welfare of residents.

E. A corrective action plan shall be approved by the regulatory authority. The provider has an additional 10 business days to submit a revised corrective action plan after receiving a notice that the plan submitted has not been approved.

22 VAC 42-11-90. Licenses/Certificates.

A. The Board of Juvenile Justice shall issue a certificate to each facility regulated by the board, indicating the facility's certification status when the facility is in compliance with these interdepartmental standards, other applicable regulations issued by the board, and applicable statutes. The certificate shall be effective for the period specified by the board unless it is revoked or surrendered sooner.

B. Facilities Regulated by DOE, DMHMRSAS, or DSS

1. A conditional license shall be issued to a new provider that demonstrates compliance with administrative and policy requirements, but has not demonstrated compliance with all the Interdepartmental Standards. A conditional license shall not exceed six months unless allowed by the *Code of Virginia*.
2. A provisional license may be issued to a provider that has demonstrated an inability to maintain compliance with the Interdepartmental Standards, or other applicable regulations; has violations of licensing standards that pose a threat to the health or safety of residents being served; has multiple violations of licensing standards; or has failed to comply with a previous corrective action plan and has one or more systemic deficiencies.
 - a. A provisional license may be issued at any time.
 - b. The term of a provisional license may not exceed six months unless allowed by the *Code of Virginia*.
3. An annual license or certificate:
 - a. Shall be issued when the provider applies for renewal while holding a conditional or provisional license or certificate and substantially meets or exceeds the requirements of the Interdepartmental Standards and other regulations and statutes.
 - b. May be issued at any time, if the provider has received one systemic deficiency.
 - c. May be renewed, but an annual license or certificate and any renewals thereof shall not exceed a period of 36 successive months for all annual licenses and renewals combined.
4. A triennial license or certificate shall be issued when the provider:

Applies for renewal while holding an annual or triennial license or certificate and substantially meets or exceeds the requirements of the Interdepartmental Standards and other applicable regulations and statutes.

C. The term of a facility's license or certificate may be modified at any time during the licensure or certification period based on a change in the facility's compliance with this regulation.

22 VAC 42-11-100. Application Fees.

- A. There shall be a \$500 nonrefundable initial application fee. If the application is closed, denied, or withdrawn, all subsequent initial applications will require another \$500 fee.
- B. There shall be a \$100 nonrefundable renewal application fee.
- C. No renewal fee will be charged to providers directly following the issuance of a conditional license.
- D. This application fee does not apply to state or locally owned, operated, or contracted facilities.
- E. Such fees are to be used for the development and delivery of training for providers and staff of children's residential facilities and regulators of these facilities.

22 VAC 42-11-110. Modification.

- A. The conditions of a license or certificate may be modified during

the term of the license or certificate with respect to the capacity, residents' age range, facility location, gender, or changes in the services. Limited modifications may be approved during the conditional licensure or certification period.

B. The provider shall submit a written report of any contemplated changes in operation which would affect the terms of the license or certificate or the continuing eligibility for licensure or certification to the lead regulatory authority.

C. A change shall not be implemented prior to approval by the regulatory authority. A determination will be made as to whether changes will be approved and the license or certificate modified accordingly or whether an application for a new license or certificate must be filed. The provider will be notified in writing within 60 days following receipt of the request as to whether the modification is approved or a new license or certificate is required.

22 VAC 42-11-120. Denial.

A. An application for licensure or certification may be denied when the applicant:

1. Violates any provision of applicable laws or regulations made pursuant to such laws;
2. Has a founded disposition of child abuse or neglect after the appeal process has been completed;
3. Has been convicted of a crime listed in §§ 37.2-416 and 63.2-1726 of the *Code of Virginia*;
4. Has made false statements on the application or misrepresentation of facts in the application process;
5. Has not demonstrated good character and reputation as determined through references, background investigations, driving records, and other application materials; or
6. Has a history of adverse licensing actions or sanctions.

B. If denial of a license or certificate is recommended, the facility will be notified in writing of the deficiencies, the proposed action, the right to appeal, and the appeal process.

22 VAC 42-11-130. Revocation.

A. The license or certificate may be revoked when the provider:

1. Violates any provision of applicable laws or applicable regulations made pursuant to such laws;
2. Engages in conduct or practices which are in violation of statutes related to abuse or neglect of children;
3. Deviates significantly from the program or services for which a license or certificate was issued without obtaining prior written approval from the regulatory authority or fails to correct such deviations within the specified time; or
4. Engages in a willful action or gross negligence which jeopardizes the care or protection of residents.

B. If revocation of a license or certificate is recommended, the facility will be notified in writing of the deficiencies, the proposed action, the right to appeal, and the appeal process.

22 VAC 42-11-140. Summary Suspension.

A. In conjunction with any proceeding for revocation, denial, or other action, when conditions or practices exist that pose an immediate and substantial threat to the health, safety, and welfare of the residents, the lead regulatory authority agency head may issue an order of summary suspension of the license or certificate to operate a children's residential facility when he believes the operation of the facility should be suspended during the pendency of such proceeding.

B. Prior to the issuance of an order of summary suspension, the regulatory authority shall contact the Executive Secretary of the Supreme Court of Virginia to obtain the name of a hearing officer. The lead regulatory authority shall schedule the time, date, and location of the administrative hearing with the hearing officer.

C. The order of summary suspension shall take effect upon its issuance. It shall be delivered by personal service and certified mail, return receipt requested, to the address of record of the facility as soon as practicable. The order shall set forth:

1. The time, date, and location of the hearing;
2. The procedures for the hearing;
3. The hearing and appeal rights; and
4. Facts and evidence that formed the basis for the order of summary suspension.

D. The hearing shall take place within three business days of the issuance of the order of summary suspension.

E. The regulatory authority shall have the burden of proving in any summary suspension hearing that it had reasonable grounds to require the facility to cease operations during the pendency of the concurrent revocation, denial, or other proceeding.

F. The administrative hearing officer shall provide written findings and conclusions, together with a recommendation as to whether the license or certificate should be summarily suspended, to the lead regulatory authority agency head within five business days of the hearing.

G. The lead regulatory authority agency head shall issue a final order of summary suspension or make a determination that the summary suspension is not warranted based on the facts presented and the recommendation of the hearing officer within seven business days of receiving the recommendation of the hearing officer.

H. The lead regulatory authority agency head shall issue and serve on the children's residential facility or its designee by personal service or by certified mail, return receipt requested either:

1. A final order of summary suspension including (i) the basis for accepting or rejecting the hearing officer's recommendations, and (ii) notice that the children's residential facility may appeal the lead regulatory authority agency head's decision to the appropriate circuit court no later than 10 days following issuance of the order; or
2. Notification that the summary suspension is not warranted by the facts and circumstances presented and that the order of summary suspension is rescinded.

I. The facility may appeal the lead regulatory authority agency head's

decision on the summary suspension to the appropriate circuit court no more than ten days after issuance of the final order.

J. The outcome of concurrent revocation, denial, and other proceedings shall not be affected by the outcome of any hearing pertaining to the appropriateness of the order of summary suspension.

K. At the time of the issuance of the order of summary suspension, the lead regulatory authority shall contact the appropriate agencies to inform them of the action and the need to develop relocation plans for residents, and ensure that parents and guardians are informed of the pending action.

22 VAC 42-11-150. Variances.

A. Any request for a variance shall be submitted in writing to the regulatory authority and should include a:

1. Justification why enforcement of the standard would create an undue hardship; and
2. Justification why resident care would not be adversely affected if the variance was granted.

A variance shall not be effected prior to approval of the regulatory authority.

22 VAC 42-11-160. Investigation of Complaints and Allegations.

The four departments of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Service; and Social Services are responsible for complete and prompt investigation of all complaints and allegations at the facilities where they have regulatory authority, and for notification of the appropriate persons or agencies when removal of residents may be necessary. Suspected criminal violations shall be reported to the appropriate law enforcement authority.

PART II ADMINISTRATION

22 VAC 42-11-170. Governing Body.

A. The provider shall clearly identify the corporation, association, partnership, individual, or public agency that is the licensee.

B. The provider shall clearly identify any governing board, body, entity or person to whom it delegates the legal responsibilities and duties of the provider.

22 VAC 42-11-180. Responsibilities of the Provider.

A. The provider shall appoint a qualified chief administrative officer to whom it delegates, in writing, the authority and responsibility for administrative direction of the facility.

B. The provider shall develop and implement a written decision making plan which shall provide for a staff person with the

qualifications of the chief administrative officer or program director to be designated to assume the temporary responsibility for the operation of the facility. Each plan must be approved by the regulatory agency and include an organizational chart.

C. The provider shall develop a written statement of the objectives of the facility including a description of the target population and the programs to be offered.

D. The provider shall develop and implement written policies and procedures to monitor and evaluate service quality and effectiveness, on a systematic and on-going basis. The provider shall implement improvements when indicated.

22 VAC 42-11-190. Fiscal Accountability.

A. Facilities operated by corporations, unincorporated organizations or associations, individuals, or partnerships shall prepare, at the end of each fiscal year:

1. An operating statement showing revenue and expenses for the fiscal year just ended;
2. A working budget showing projected revenue and expenses for the next fiscal year that gives evidence that there are sufficient funds to operate; and
3. A balance sheet showing assets and liabilities for the fiscal year just ended.

B. There shall be a system of financial record keeping that shows a separation of the facility's accounts from all other records.

C. The provider shall develop and implement written policies and procedures that address the day-to-day handling of facility funds to include:

1. Handling of deposits;
2. Writing of checks; and
3. Handling of petty cash.

22 VAC 42-11-200. Insurance.

A. The facility shall maintain liability insurance covering the premises and the facility's operations.

B. The facility shall provide documentation that all vehicles used to transport residents are insured, including vehicles owned by staff.

C. The members of the governing body and staff who have been authorized to handle the facility's or resident's funds shall be bonded or otherwise indemnified against employee dishonesty.

22 VAC 42-11-210. Fund-Raising.

The facility shall not use residents in its fund-raising activities without written permission of the legal guardian and the permission of residents 14 years or older.

22 VAC 42-11-220. Weapons.

The facility shall develop and implement a written policies and procedures governing the possession and use of firearms, pellet guns, air guns, and other weapons on the facility's premises and on facility related activities. The policy shall provide that no firearms, pellet guns, air guns, or other weapons shall be permitted on the premises or at facility sponsored activities unless the weapons are:

1. In the possession of licensed security personnel or law enforcement officers;
2. Kept securely under lock and key; or
3. Used by a resident with the legal guardian's permission, under the supervision of a responsible adult, in accord with policies and procedures developed by the facility for the weapons' lawful and safe use.

22 VAC 42-11-230. Relationship to Regulatory Authority.

The provider shall submit or make available to the regulatory authority such reports and information as the regulatory authority may require to establish compliance with these interdepartmental standards and other applicable regulations and statutes.

B. The governing body or its official representative shall notify the regulatory authorities within five working days of any change in administrative structure or newly hired chief administrative officer.

22 VAC 42-11- 240. Facilities Serving Persons Over the Age of 17 Years.

Facilities which are approved to serve persons over the age of 17 years shall comply with these interdepartmental standards for all occupants regardless of age, except when it is determined by the regulatory authorities that housing, programs, services, and supervision for such persons are provided separately from those for the residents.

22 VAC 42-11- 250. Health Information.

A. Health information required by this section shall be maintained for each staff member and for each individual who resides in a building occupied by residents, including each person who is not a staff member or resident of the facility. Health information is to be handled, maintained and stored in a fashion which maintains confidentiality of the information at all times.

B. Tuberculosis Evaluation.

1. At the time of hire, each individual shall submit the results of a screening assessment documenting the absence of tuberculosis in a communicable form as evidenced by the completion of a form containing, at a minimum, the elements of a current screening form published by the Virginia Department of Health. The screening assessment shall be no older than 30 days.

2. Each individual shall annually submit the results of a screening assessment, documenting that the individual is free of tuberculosis in a communicable form as evidenced by the completion of a form containing, at a minimum, the elements of a current screening form published by the Virginia Department of Health.

C. Subsequent Evaluations for Tuberculosis

1. An individual who comes in contact with a known case of infectious tuberculosis shall be screened as determined appropriate based on consultation with the local health department.
2. An individual who develops chronic respiratory symptoms of three weeks duration shall be evaluated immediately for the presence of infectious tuberculosis.

D. An individual suspected of having infectious tuberculosis shall not be permitted to return to work or have contact with staff or residents until a physician has determined that the individual is free of infectious tuberculosis.

E. The facility shall report any active case of tuberculosis developed by a staff member to the local health department.

22 VAC 42-11- 260. Physical or Mental Health of Personnel.

A. The provider or the regulatory authority may require a report of examination by a licensed physician or mental health professional when there are indications that an individual's physical, mental, or emotional health may jeopardize the care of residents.

B. An individual who is determined by a licensed physician or mental health professional, to show an indication of a physical or mental condition which may jeopardize the safety of residents or which would prevent the performance of duties shall be removed immediately from contact with residents and food served to residents until the condition is cleared as evidenced by a signed statement from the physician or mental health professional.

22 VAC 42-11-270. Qualifications.

A. Standards establishing minimum position qualifications shall be applicable to all facilities. In lieu of the minimum position qualifications contained in this chapter, facilities subject to (i) the rules and regulations of the Virginia Department of Human Resource Management or (ii) the rules and regulations of a local government personnel office may develop written minimum entry level qualifications in accord with the rules and regulations of the supervising personnel authority.

B. A person who assumes or is designated to assume the responsibilities of a position or any combination of positions described in these standards shall:

1. Meet the qualifications of the position or positions;
2. Fully comply with all applicable standards for each function; and
3. Demonstrate a working knowledge of the policies and procedures that are applicable to his specific position or positions.

C. When services or consultation are obtained on a contractual basis they shall be provided by professionally qualified personnel.

22 VAC 42-11-280. Job Descriptions.

A. There shall be a written job description for each position which, at a minimum, includes the:

1. Job title;
2. Duties and responsibilities of the incumbent;
3. Job title of the immediate supervisor; and
4. Minimum education, experience, knowledge, skills , and abilities required for entry level performance of the job.

B. A copy of the job description shall be given to each person assigned to a position at the time of employment or assignment.

22 VAC 42-11-29 0. Written Personnel Policies and Procedures.

A. The provider shall have and implement provider approved written personnel policies and make its written personnel policies readily accessible to each staff member.

B. The provider shall develop and implement written policies and procedures to assure that persons employed in or designated to assume the responsibilities of each position possess the education, experience, knowledge, skills, and abilities specified in the job description for the position.

22 VAC 42-11-300. Personnel Records.

A. Separate up-to-date written or automated personnel records shall be maintained for each employee, student/intern, volunteer, and contractual service provider for whom background investigations are required by Virginia statute. Content of personnel records of volunteers and contractual service providers may be limited to documentation of compliance with requirements of Virginia laws regarding child protective services and criminal history background investigations.

B. The records of each employee shall include:

1. A completed employment application form or other written material providing the individual's name, address, phone number, and social security number or other unique identifier;
2. Educational background and employment history;
3. Written references or notations of oral references;
4. Reports of required health examinations;
5. Annual performance evaluations;
6. Date of employment and separation;
7. Documentation of compliance with requirements of Virginia laws regarding child protective services and criminal history background investigations;
8. Documentation of educational degrees and of professional certification or licensure;
Documentation of all training required by this regulation and any other training received by individual staff; and
10. A current job description.

C. Personnel records, including separate health records, shall be retained in their entirety for three years after separation from employment, contractual service, student/intern, or volunteer service.

22 VAC 42-11-310. Staff Development.

A. Required initial training:

1. Within seven days following their begin date, each staff member

responsible for supervision of children shall receive basic orientation to the facility's behavior intervention policies, procedures and techniques regarding less restrictive interventions, timeout, and physical restraint.

Within 14 days following an individual's begin date, or before an individual is alone supervising children, the provider shall implement emergency preparedness and response training which shall include:

- a. Alerting emergency personnel and sounding alarms;
- b. Implementing evacuation procedures, including evacuation of residents with special needs (i.e., deaf, blind, non-ambulatory);
- c. Using, maintaining, and operating emergency equipment;
- d. Accessing emergency information for residents including medical information; and
- e. Utilizing community support services.

3. Within 14 days following their begin date, new employees, employees transferring from other facilities operated by the same sponsor, relief staff, volunteers and students/interns shall be given orientation and training regarding:

- a. The objectives of the facility;
- b. Practices of confidentiality;
- c. The decision making plan;
- d. The *Standards for Interdepartmental Regulation of Children's Residential Facilities* including the prohibited actions as outlined in this regulation; and
- e. Other policies and procedures that are applicable to their positions and their duties and responsibilities.

4. Within 30 days following their begin date, all staff working with residents shall be enrolled in a standard first aid class and in a cardiopulmonary resuscitation class facilitated by the American Red Cross or other recognized authority, unless the individual is currently certified in first aid and cardiopulmonary resuscitation.

5. Within 30 days following their begin date, all staff working with residents shall be trained in child abuse and neglect; mandatory reporting; maintaining appropriate professional relationships and interaction among staff and residents; and suicide prevention.

6. Within 30 days following their begin date, all staff shall be trained on the facility's policies and procedures regarding universal precautions.

7. Within 30 days following their begin date, all staff shall be trained on good neighbor policies and community relations.

8. Before they can administer medication, all staff responsible for medication administration shall have successfully completed a medication training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medications.

9. All staff shall be trained in any area of quality improvement as identified from the results of the quality improvement plan.

B. Required annual retraining:

1. All employees, contractors, students/interns, and volunteers shall complete an annual refresher emergency preparedness and response training which shall include:

- a. Alerting emergency personnel and sounding alarms;
- b. Implementing evacuation procedures, including evacuation of residents with special needs (i.e., deaf, blind, non-ambulatory);

- c. Using, maintaining, and operating emergency equipment;
- d. Accessing emergency information for residents including medical information; and
- e. Utilizing community support services.
 - 2. All staff who administer medication shall complete an annual refresher medication training.
 - 3. All child care staff shall receive annual retraining on the provider's behavior intervention and timeout policies and procedures.
 - 4. All staff working with residents shall receive annual retraining in child abuse and neglect; mandatory reporting; maintaining appropriate professional relationships and interaction among staff and residents; and suicide prevention.
 - 5. All staff shall receive annual retraining on the provider's policies and procedures regarding universal precautions.

D. Each full time staff person who works with residents shall complete an additional 15 hours of annual training applicable to their job duties.

E. Facilities shall develop and implement written policies and procedures to ensure that part time staff receive training applicable to their positions.

F. Training provided will be comprehensive and based on the needs of the population served to ensure that staff have the competencies to perform their jobs.

22 VAC 42-11-320. Staff Supervision.

The provider shall develop and implement written policies and procedures regarding the supervision of staff, volunteers and students/interns. These policies and procedures shall include:

- 1. Type of supervision;
- 2. Frequency of supervision; and
- 3. How the supervision will be documented.

22 VAC 42-11-330. The Applicant.

A. Each applicant shall show evidence that they have been trained on appropriate siting of children's residential facilities.

B. The applicant shall be interviewed in person by the regulatory authority to determine the qualifications of the owner or operator as set out in this regulation.

C. Should the applicant not be qualified to perform the duties of the chief administrative officer, the applicant shall hire an individual with the qualifications, as set out in this regulation, to perform the duties of the chief administrative officer.

22 VAC 42-11-340. The Chief Administrative Officer.

 A. The chief administrative officer shall have the following responsibilities:

- 1. Responsibility for compliance with the *Standards for Interdepartmental Regulation of Children's Residential Facilities* and

other applicable standards;

2. Responsibility for all personnel;
3. Overseeing facility operation in its entirety, including the approval of the design of the structured program of care and its implementation; and
4. Responsibility for the facility's financial integrity.

B. A chief administrative officer appointed after the effective date of these standards shall have at least:

1. A master's degree in social work, psychology, counseling, or nursing and two years of full time paid work experience in a children's residential facility and one year full time experience in an administrative or supervisory capacity; or
2. A baccalaureate degree in social work, psychology, counseling, or nursing and three years full time paid work experience with children, at least two of which were in a children's residential facility and one year of administrative or supervisory experience; or
3. A master's in education and two years of full time paid work experience in a children's residential facility and one year full time experience in an administrative or supervisory capacity or baccalaureate degree in education and three years full time paid work experience with children, at least two of which were in a children's residential facility and one year of administrative or supervisory experience may be accepted for a chief administrative officer of a program whose lead regulatory agency is the Department of Education; or
4. A baccalaureate degree and seven years of full time paid work experience with children at least four of which shall be in a children's residential facility and two years of administrative or supervisory experience.

C. Any applicant for the chief administrative officer position shall submit the following to demonstrate compliance with the qualifications required by this regulation for the chief administrative officer:

1. Official transcripts from the accredited college or university of attendance within 30 days of hire; and
2. Documentation of prior relevant experience.

22 VAC 42-11-350. Program Director.

A. The facility's program shall be directed by one or more qualified persons.

B. Persons directing programs shall be responsible for the development and implementation of the programs and services offered by the facility, including overseeing assessments, service planning, staff scheduling, and supervision.

C. Persons directing programs of a facility licensed or certified to care for 13 or more residents shall be full time, qualified staff members.

D. A person appointed after the effective date of these standards to direct programs shall have at least:

1. A master's degree in social work, psychology, counseling, or nursing and two years of full time paid work experience with children, one of which needs to be in a children's residential facility and one

year of administrative or supervisory experience;

2. A baccalaureate degree in social work, psychology, counseling or nursing and three years full time paid experience working with children, one of which must be in a children's residential facility and one year of administrative or supervisory experience;

3. A license or certificate issued by the Commonwealth of Virginia as a drug or alcoholism counselor/worker if the facility's purpose is to treat drug abuse or alcoholism;

4. A baccalaureate degree and five years of full time paid experience working with children at least three of which must be in a children's residential facility and one year of full time supervisory or administrative experience; or

5. A master's degree in education and two years of full time paid work experience with children, one of which needs to be in a children's residential facility and one year of administrative or supervisory experience or a baccalaureate degree in education with an endorsement in at least one area of disability served by the program and three years full time paid experience working with children, one of which must be in a children's residential facility and one year of administrative or supervisory experience may be accepted for a program director of a program whose lead regulatory agency is the Department of Education.

E. Any applicant for the program director position shall submit the following to demonstrate compliance with the qualifications required by this regulation for the program director:

1. Official transcripts from the accredited college or university of attendance within 30 days of hire; and

2. Documentation of prior relevant experience.

22 VAC 42-11-360. Case manager.

Case managers shall have the responsibility for:
Coordination of all services offered to each resident; and
Provision of case management services as required in
22 VAC 42-11-760.A.

Case managers shall have:

A master's degree in social work, psychology, or counseling; or

2. A baccalaureate degree in social work or psychology with documented field work experience and must be supervised by the program director or other staff employed by the provider with the same qualifications as required by 22 VAC 42 -11-350.D; or

3. A baccalaureate degree and three years of full time paid experience working with children at least one of which shall be in a children's residential facility.

22 VAC 42-11-370. Child care supervisor.

Child care supervisors shall have responsibility for the:
Development of the daily living program within each child care unit;
and;

Orientation, training and supervision of direct care workers.

Child care supervisors shall have:

1. A baccalaureate degree in social work or psychology and two years of full time paid experience working with children one year of which must have been in a residential facility for children;

2. A high school diploma or a General Education Development Certificate (G.E.D.) and a minimum of five years full time paid experience working with children with at least two years in a residential facility for children; or
3. A combination of education and experience working with children as approved by the lead regulatory authority.

22 VAC 42-11-380. Child care staff.

A. The child care worker shall have responsibility for guidance and supervision of the children to whom he is assigned including:

1. Overseeing physical care;
2. Development of acceptable habits and attitudes;
3. Management of resident behavior; and
4. Helping to meet the goals and objectives of any required service plan.

B. A child care worker and a relief child care worker shall:

1. Have a baccalaureate degree in human services;
2. Have an associates degree and three months experience working with children; or
3. Be a high school graduate or have a General Education Development Certificate (G.E.D.) and have six months of experience working with children.

C. Child care staff with a high school diploma or G.E.D. with no experience working with children may not work alone, but may be employed as long as they are working directly with the child care supervisor, chief administrative officer, program director, or case manager.

D. An individual hired, promoted, demoted, or transferred to a child care worker's position after the effective date of these standards shall be at least 21 years old.

E. The provider shall not be dependent on temporary contract workers to provide child care.

22 VAC 42-11-390. Relief Staff.

Qualified relief staff shall be employed as necessary to meet the needs of the programs and services offered and to maintain a structured program of care in accordance with 22 VAC 42-11-780.

22 VAC 42-11-400. Volunteers and Students/Interns.

A. A facility that uses volunteers or students/interns shall develop and implement written policies and procedures governing their selection and use.

B. The facility shall not be dependent upon use of volunteers or students/interns to provide basic services.

C. Responsibilities of volunteers and students/interns shall be clearly defined in writing.

D. Volunteers and students/interns shall have qualifications appropriate to the services they render.

22 VAC 42-11-410. Support Functions.

A. Child care workers and other staff responsible for child care may assume the duties of non-child care personnel only when these duties do not interfere with their child care responsibilities.

B. Residents shall not be solely responsible for support functions, including but not necessarily limited to, food service, maintenance of building and grounds, and housekeeping.

PART III RESIDENTIAL ENVIRONMENT

22 VAC 42-11-420. Buildings, Inspections and Building Plans.

A. All buildings and building related equipment shall be inspected and approved by the local building official. Approval shall be documented by a certificate of occupancy.

B. The facility shall document at the time of its original application evidence of consultation with state or local fire prevention authorities.

C. The facility shall document annually after the initial application that buildings and equipment are maintained in accordance with the Virginia Statewide Fire Prevention Code (13 VAC 5-51-10 et. seq.).

D. At the time of the original application and at least annually thereafter the buildings shall be inspected and approved by state or local health authorities, whose inspection and approval shall include:

1. General sanitation;
2. The sewage disposal system;
3. The water supply; and
4. Food service operations.

E. The buildings and physical environment shall provide adequate space and shall be of a design that is suitable to house the programs and services provided and meet specialized needs of the residents.

F. Building plans and specifications for new construction, change in use of existing buildings, and any structural modifications or additions to existing buildings shall be submitted to and approved by the lead regulatory agency and by other appropriate regulatory authorities.

G. Swimming pools shall be inspected annually by the state or local health authorities or by a swimming pool business.

22 VAC 42-11-430. Heating Systems, Ventilation and Cooling Systems.

A. Heat shall be evenly distributed in all rooms occupied by the residents such that a temperature no less than 68° F is maintained, unless otherwise mandated by state or federal authorities.

B. Natural or mechanical ventilation to the outside shall be

provided in all rooms used by residents.

C. Air conditioning or mechanical ventilating systems, such as electric fans, shall be provided in all rooms occupied by residents when the temperature in those rooms exceeds 80°F.

22 VAC 42-11-440. Lighting.

A. Artificial lighting shall be by electricity.

B. All areas within buildings shall be lighted for safety and shall be sufficient for the activities being performed.

C. Lighting in halls shall be adequate and shall be continuous at night.

D. Operable flashlights or battery powered lanterns shall be available for each staff member on the premises between dusk and dawn to use in emergencies.

E. Outside entrances and parking areas shall be lighted for protection against injuries and intruders.

22 VAC 42-11-450. Plumbing.

A. Plumbing shall be maintained in good operational condition.

B. An adequate supply of hot and cold running water shall be available at all times.

C. Precautions shall be taken to prevent scalding from running water. Water temperatures should be maintained at 100° - 120° F.

22 VAC 42-11-460. Toilet Facilities.

A. There shall be at least one toilet, one hand basin, and one shower or bathtub in each living unit.

B. There shall be at least one bathroom equipped with a bathtub in each facility.

C. There shall be at least one toilet, one hand basin, and one shower or tub for every eight residents for facilities licensed before July 1, 1981, and have made no structural changes or constructed any buildings.

D. There shall be one toilet, one hand basin, and one shower or tub for every four residents in any building constructed or structurally modified after July 1, 1981, except secure custody facilities. Facilities licensed after the effective date of these standards must comply with the one to four ratio.

E. The maximum number of staff members on duty in the living unit shall be counted in determining the required number of toilets and hand basins when a separate bathroom is not provided for staff.

F. There shall be at least one mirror securely fastened to the wall

at a height appropriate for use in each room where hand basins are located except in security rooms in hospitals and secure custody facilities.

22 VAC 42-11-470. Personal Necessities.

A. An adequate supply of personal necessities shall be available to the residents at all times for purposes of personal hygiene and grooming.

B. Clean, individual washcloths and towels shall be in good repair and available once each week and more often, if needed.

C. When residents are incontinent or not toilet trained:

1. Provision shall be made for sponging, diapering or other similar care on a nonabsorbent changing surface which shall be cleaned with warm soapy water after each use.

2. A covered diaper pail, or its equivalent, with leak proof disposable liners shall be available. If both cloth and disposable diapers are used there shall be a diaper pail for each.

3. Adapter seats and toilet chairs shall be cleaned immediately after each use with appropriate cleaning materials.

4. Staff shall thoroughly wash their hands with warm soapy water immediately after assisting a child or themselves with toileting.

5. Appropriate privacy, confidentiality and dignity shall be maintained for residents during toileting and diapering.

22 VAC 42-11-480. Sleeping Areas.

A. When residents are four years of age or older, boys and girls shall have separate sleeping areas.

B. No more than four children may share a bedroom or sleeping area except as provided by other applicable state regulations governing juvenile correctional centers.

C. Children who use wheelchairs, crutches, canes, or other mechanical devices for assistance in walking shall be provided with a planned, personalized means of effective egress for use in emergencies.

D. Beds shall be at least three feet apart at the head, foot, and sides and double-decker beds shall be at least five feet apart at the head, foot, and sides.

E. Sleeping quarters in facilities licensed by the DSS prior to July 1, 1981, and facilities established, constructed or structurally modified after July 1, 1981, except for primitive campsites, shall have:

1. At least 80 square feet of floor area in a bedroom accommodating one person;

2. At least 60 square feet of floor area per person in rooms accommodating two or more persons; and

3. Ceilings with a primary height at least 7½ feet in height exclusive of protrusions, duct work, or dormers.

Each child shall have a separate, clean, comfortable bed equipped

with a clean mattress, clean pillow, clean blankets, clean bed linens, and, if needed, a clean waterproof mattress cover.

G. Bed linens shall be changed at least every seven days and more often, if needed.

H. Mattresses shall be fire retardant as evidenced by documentation from the manufacturer except in buildings equipped with an automated sprinkler system as required by the Virginia Uniform Statewide Building Code.

I. Cribs shall be provided for residents under two years of age.

J. Each resident shall be assigned drawer space and closet space, or their equivalent, which is accessible to the sleeping area for storage of clothing and personal belongings except in secure custody facilities.

K. The sleeping areas' environment shall be conducive to sleep and rest.

22 VAC 42-11-490. Smoking Prohibition.

Smoking shall be prohibited in living areas and in areas where residents participate in programs.

22 VAC 42-11-500. Residents' Privacy.

A. When bathrooms are not designated for individual use, except in secure custody facilities:

1. Each toilet shall be enclosed for privacy, and
2. Bathtubs and showers shall provide visual privacy for bathing by use of enclosures, curtains or other appropriate means.

B. Windows in bathrooms, sleeping areas, and dressing areas shall provide for privacy.

C. Every sleeping area shall have a door that may be closed for privacy or quiet and this door shall be readily opened in case of fire or other emergency. In secure custody facilities, the door may be equipped with an observation window.

D. Residents shall be provided privacy from routine sight supervision by staff members of the opposite gender while bathing, dressing, or conducting toileting activities. This section does not apply to medical personnel performing medical procedures, to staff providing assistance to infants, or to staff providing assistance to residents whose physical or mental disabilities dictate the need for assistance with these activities as justified in the resident's record.

E. Video and audio monitoring shall be permitted only in common hallways and common areas. All such monitoring shall have the approval of the regulatory authority and if licensed by DMHMRSAS the approval of the Office of Human Rights. DJJ certified facilities shall obtain the approval of the regulatory authority before any video or audio monitoring is permitted. Video and audio monitoring is prohibited in bathrooms, dressing areas, and bedrooms.

22 VAC 42-11-510. Living Rooms and Indoor Recreation Space.

A. Each living unit, except for secure custody, shall have a living room, or other area for informal use, for relaxation and entertainment. The furnishings shall provide a comfortable, home-like environment that is appropriate to the ages of the residents.

B. All facilities shall have indoor recreation space that contains indoor recreation materials appropriate to the ages and interests of the residents.

Facilities licensed or certified to care for 13 or more residents shall have recreation space distinct from the living room.

22 VAC 42-11-520. Study Space.

A. Facilities serving a school age population shall provide study space. Study space may be assigned in areas used interchangeably for other purposes.

B. Study space shall be well lighted, quiet, and equipped with tables or desks and chairs.

22 VAC 42-11-530. Kitchen and Dining Areas.

A. Meals shall be served in areas equipped with sturdy tables and benches or chairs which are size and age appropriate for the residents.

B. Adequate kitchen facilities and equipment shall be provided for preparation and serving of meals.

C. Walk-in refrigerators, freezers, and other enclosures shall be equipped to permit emergency exits.

22 VAC 42-11-540. Laundry Areas.

Appropriate space and equipment in good repair shall be provided if laundry is done at the facility.

22 VAC 42-11-550. Storage.

Space shall be provided for safe storage of items such as first aid equipment, household supplies, recreational equipment, luggage, out-of-season clothing, and other materials.

22 VAC 42-11-560. Staff Quarters.

A. A separate, private bedroom shall be provided for staff and their families when a staff member is on duty for 24 consecutive hours or more.

B. A separate private bathroom shall be provided for staff and their families when there are more than four persons in the living unit and the staff person is on duty for 24 consecutive hours or more.

C. Staff and members of their families shall not share bedrooms with

residents.

22 VAC 42-11-570. Office Space.

Space shall be provided for administrative activities including, as appropriate to the program, confidential conversations and provision for storage of records and materials.

22 VAC 42-11-580. Buildings and Grounds.

The facility's grounds shall be safe, properly maintained, and free of clutter and rubbish. The grounds include, but are not limited to, all areas where residents, staff, and visitors may reasonably be expected to have access, including roads, pavements, parking lots, open areas, stairways, railings, and potentially hazardous or dangerous areas.

B. The interior and exterior of all buildings shall be safe, properly maintained, clean and in good working order. This includes, but is not limited to, required locks, mechanical devices, indoor and outdoor equipment, and furnishings.

C. Outdoor recreation space shall be available and appropriately equipped for the residents' use.

22 VAC 42-11-590. Equipment and Furnishings.

A. All furnishings and equipment shall be safe, clean, and suitable to the ages and number of residents.

B. There shall be at least one continuously operable, non-pay telephone accessible to staff in each building in which children sleep or participate in programs.

22 VAC 42-11-600. Housekeeping and Maintenance.

A. All buildings shall be well-ventilated and free of stale, musty, or foul odors.

B. Adequate provision shall be made for the collection and legal disposal of garbage and waste materials.

C. Buildings shall be kept free of flies, roaches, rats, and other vermin.

D. A sanitizing agent shall be used in the laundering of bed, bath, table, and kitchen linens.

22 VAC 42-11-610. Farm and Domestic Animals.

A. Horses and other animals maintained on the premises shall be quartered at a reasonable distance from sleeping, living, eating and food preparation areas, as well as a safe distance from water supplies.

B. Animals maintained on the premises shall be tested, inoculated and licensed as required by law.

C. The premises shall be kept free of stray domestic animals.

D. Pets shall be provided with clean quarters and adequate food and water.

PART IV PROGRAMS AND SERVICES

22 VAC 42-11-6 20. Acceptance of Children.

Children shall be accepted only by court order or by written placement agreement with legal guardians. This requirement does not apply to temporary care facilities when self-admission is made according to Virginia law.

22 VAC 42-11-630. Admission Procedures.

A. The facility shall have written criteria for admission which shall include:

1. A description of the population to be served;
2. A description of the types of services offered;
3. Intake and admission procedures;
4. Exclusion criteria to define those behaviors or problems that the facility does not have the staff with experience or training to manage; and
5. Description of how educational services will be provided to the population being served.

B. The facility shall accept and serve only those children whose needs are compatible with the services provided through the facility unless a child's admission is ordered by a court of competent jurisdiction.

C. Acceptance of a child as eligible for respite care by a facility approved to provide residential respite care is considered admission to the facility. Each individual period of respite care is not considered a separate admission.

D. Each facility shall provide documentation showing proof of contractual agreements or staff expertise to provide educational services, counseling services, psychological services, medical services, or any other services needed to serve the residents in accordance with the facility's program description as defined by the facility's criteria of admission.

22 VAC 42-11-640. Maintenance of Residents' Records.

A. A separate written or automated case record shall be maintained for each resident. In addition, all correspondence and documents received by the facility relating to the care of that resident should be maintained as part of the case record. A separate health record may be kept on each resident.

B. Each case record and health record shall be kept up to date and in a uniform manner.

C. The provider shall develop and implement written policies

and procedures for management of all records, written and automated, that shall describe confidentiality, accessibility, security, and retention of records pertaining to residents, including:

1. Access, duplication, dissemination, and acquiring of information only to persons legally authorized according to federal and state laws;

2. Facilities using automated records shall address procedures which include:

a. How records are protected from unauthorized access;

b. How records are protected from unauthorized Internet access;

c. How records are protected from loss;

d. How records are protected from unauthorized alteration; and

e. How records are backed up;

3. Security measures to protect records from loss, unauthorized alteration, inadvertent or unauthorized access, disclosure of information and transportation of records between service sites;

4. Designation of person responsible for records management; and

5. Disposition of records in the event the facility ceases to operate.

D. The policy shall specify what information is available to the resident.

E. Active and closed records shall be kept in areas which are accessible to authorized staff and protected from unauthorized access, fire, and flood.

1. When not in use written records shall be stored in a metal file cabinet or other metal compartment.

2. Facility staff shall assure the confidentiality of the residents' records by placing them in a locked cabinet or drawer or in a locked room when the staff member is not present.

F. Each resident's written case and health records shall be stored separately subsequent to the resident's discharge according to applicable statutes and regulations.

G. Written and automated records shall be retained in their entirety for a minimum of three years after the date of discharge unless otherwise specified by state or federal requirements.

H. The face sheet shall be retained permanently unless otherwise specified by state or federal requirements.

22 VAC 42-11-650. Interstate Compact on the Placement of Children.

A. Documentation of the prior approval of the administrator of the Virginia Interstate Compact on the Placement of Children, Virginia Department of Social Services, shall be retained in the record of each resident admitted from outside Virginia. The requirements of this section shall not apply to a facility providing documentation that the administrator of the Virginia interstate compact has determined the facility is statutorily exempt from the compact's provisions.

B. Documentation that the provider has sent copies of all serious incident reports regarding any child placed through the Interstate Compact to the administrator of the Virginia Interstate Compact on the Placement of Children shall be kept in the resident's record.

C. No later than five days after a resident has been transferred to another facility operated by the same sponsor, the resident's record shall contain documentation that the administrator of the Virginia Interstate Compact on the Placement of Children was notified in writing of the resident's transfer.

D. No later than 10 days after discharge the resident's record shall contain documentation that the administrator of the Virginia Interstate Compact on the Placement of Children was notified in writing of the discharge.

E. The provider shall not discharge or send out-of-state youth in the custody of out-of-state social services agencies and courts to reside with a parent, relative, or other individual who lives in Virginia without the approval of the administrator of the Virginia Interstate Compact on the Placement of Children.

22 VAC 42-11-660. Participation of Residents in Human Research.

The provider shall:

1. Implement a written policy stating that residents will not be used as subjects of human research; or
2. Document approval, as required by the regulatory authorities, for each research project using residents as subjects of human research.

22 VAC 42-11-670. Emergency and Self-Admissions.

Providers accepting emergency or self-admissions shall:

1. Develop and implement written policies and procedures governing such admissions which shall include procedures to make and document prompt efforts to obtain (i) a written placement agreement signed by the legal guardian or (ii) the order of a court of competent jurisdiction;
2. Place in each resident's record the order of a court of competent jurisdiction, a written request for care, or documentation of an oral request for care; and justification of why the resident is to be admitted on an emergency basis; and
3. Clearly document in written assessment information gathered for the emergency admission that the individual meets the facility's criteria for admission.

22 VAC 42-11-680. Application for Admission.

A. Admission shall be based on evaluation of an application for admission. The requirements of this section do not apply to court ordered placements or transfer of a resident between residential facilities located in Virginia and operated by the same sponsor.

B. Providers shall develop, and fully complete prior to acceptance for care, an application for admission which is designed to compile information necessary to determine:

1. The educational needs of the prospective resident;
2. The mental health, emotional, and psychological needs of the

prospective resident;

3. The physical health needs, including the immunization needs, of the prospective resident;

4. The protection needs of the prospective resident;

5. The suitability of the prospective resident's admission;

6. The behavior support needs of the prospective resident; and

7. Information necessary to develop a service plan and a behavior support plan.

C. The resident's record shall contain a completed application for admission at the time of a routine admission or within 30 days after an emergency admission.

D. Each facility shall develop and implement written policies and procedures to assess each prospective resident as part of the application process to ensure that:

1. The needs of the prospective resident can be addressed by the facility's services;

2. The facility's staff are trained to meet the prospective resident's needs; and

3. The admission of the prospective resident would not pose any significant risk to (i) the prospective resident or (ii) the facility's residents or staff.

22 VAC 42-11-690. Written Placement Agreement.

A. The facility, except a facility which accepts admission only upon receipt of the order of a court of competent jurisdiction, shall develop a written placement agreement which:

1. Authorizes the resident's placement;

2. Addresses acquisition of and consent for any medical treatment needed by the resident;

3. Addresses the rights and responsibilities of each party involved;

4. Addresses financial responsibility for the placement;

5. Addresses visitation with the resident; and

6. Addresses the education plan for the resident and the responsibilities of all parties.

B. Each resident's record shall contain, prior to a routine admission, a completed placement agreement signed by a facility representative and the legal guardian or placing agency, except as permitted for temporary emergency shelters pursuant to § 63.2-1817 of the *Code of Virginia*.

C. The record of each person admitted based on a court order shall contain a copy of the court order.

22 VAC 42-11-700. Face Sheet.

A. At the time of admission, each resident's record shall include a completed face sheet which contains (i) the resident's full name, last known residence, birth date, birthplace, gender, race, social security number or other unique identifier, religious preference, and admission date; and (ii) names, addresses, and telephone numbers of the resident's legal guardians, placing agency, and emergency contacts.

B. Information shall be updated when changes occur.

C. The face sheet for pregnant teens shall also include the expected date of delivery and the name of the hospital to provide delivery services to the resident.

D. The face sheet of residents who are transferred to facilities operated by the same sponsor shall indicate the address and dates of placement and transfer at each location.

E. At the time of discharge the following information shall be added to the face sheet:

1. Date of discharge;
 2. Reason for discharge;
 3. Names and addresses of persons to whom the resident was discharged; and
- Forwarding address of the resident, if known.

22 VAC 42-11-710. Initial Objectives and Strategies.

Within three days following admission, individualized, measurable objectives and strategies for the first 30 days shall be developed, distributed to affected staff and the resident, and placed in the resident's record. The objectives and strategies shall be based on the reasons for admitting the resident. The requirements of this section do not apply to secure detention facilities, except when a juvenile is confined in post-dispositional detention.

22 VAC 42-11-720. Service Plan/Quarterly reports.

A. An individualized service plan shall be developed and placed in the resident's record within 30 days following admission and implemented immediately thereafter.

B. Individual-ized service plans shall describe in measurable terms the:

1. Strengths and needs of the resident;
2. Resident's current level of functioning;
3. Goals, objectives and strategies established for the resident;
4. Projected family involvement;
5. Projected date for accomplishing each objective; and
6. Status of the projected discharge plan and estimated length of stay except that this requirement shall not apply to a facility which discharges only upon receipt of the order of a court of competent jurisdiction.

C. The initial service plan shall be reviewed within 60 days of the initial plan and within each 90 day period thereafter and revised as necessary.

D. The provider shall develop and implement written policies and procedures to document progress of the resident towards meeting goals and objectives of the service plan which shall include the:

Format;
Frequency; and
Person responsible.

E. There shall be a documented quarterly review of each resident's progress 60 days following the initial service plan and within each 90 day period thereafter and shall report the:

1. Resident's progress toward meeting the plan's objectives;
2. Family's involvement;
3. Continuing needs of the resident;
4. Resident's progress towards discharge; and
5. Status of discharge planning.

F. Each plan and quarterly progress report shall include the date it was developed and the signature of the person who developed it.

G. Staff responsible for daily implementation of the resident's individualized service plan shall be able to describe the resident's behavior in terms of the objectives in the plan.

H. There shall be documentation showing the involvement of the following parties unless clearly inappropriate, in developing and updating the individualized service plan and in developing the quarterly progress report:

1. The resident;
2. The resident's family, legal guardian, or legally authorized representative;
3. The placing agency; and
4. Facility staff.

I. The initial individualized service plan, each update, and all quarterly progress reports shall be distributed to the resident; the resident's family, legal guardian, or legally authorized representative; the placing agency; and appropriate facility staff if allowed by federal guidelines and using all procedures as required by federal guidelines.

J. The requirements of this section do not apply to secure detention facilities except when a juvenile is confined in post-dispositional detention.

22 VAC 42-11-730. Resident Transfer Between Residential Facilities Located in Virginia and Operated by the Same Sponsor.

A. Except when transfer is ordered by a court of competent jurisdiction, the receiving provider shall document at the time of transfer:

1. Preparation through sharing information with the resident, the family and the placing agency about the facility, the staff, the population served, activities and criteria for admission;
2. Notification to the family, if appropriate; the resident, the placement agency and the legal guardian;
3. Receipt from the sending facility of a written summary of the resident's progress while at the facility, justification for the transfer, and the resident's current strengths and needs; and
4. Receipt of the resident's record.

B. The sending facility shall retain a copy of the face sheet and a written summary of the child's progress while at the facility and shall document the date of transfer and the name of the facility to which the resident has been transferred.

22 VAC 42-11-740. Discharge.

A. The provider shall have written criteria for discharge that shall

include:

1. Criteria for a resident's completing the program which are consistent with the facility's programs and services;
2. Conditions under which a resident may be discharged before completing the program; and
3. Procedures for assisting placing agencies in placing the residents should the facility cease operation.

B. The provider's criteria for discharge shall be accessible to prospective residents, legal guardians, and placing agencies.

C. The record of each resident discharged upon receipt of the order of a court of competent jurisdiction shall contain a copy of the court order.

D. Residents shall be discharged only to the legal guardian or legally authorized representative.

E. A facility approved to provide residential respite care shall discharge a resident when the legal guardian no longer intends to use the facility's services.

F. Information concerning current medications, need for continuing therapeutic interventions, educational status, and other items important to the resident's continuing care shall be provided to the legal guardian or legally authorized representative, as appropriate.

G. Unless discharge is ordered by a court of competent jurisdiction, prior to the planned discharge date, each resident's record shall contain:

1. Documentation that discharge has been planned and discussed with the parent, legal guardian, child placing agency, and resident; and
2. A written discharge plan.

H. Discharge summaries.

No later than 30 days after discharge, a comprehensive discharge summary shall be placed in the resident's record and sent to the persons or agency which made the placement. The discharge summary shall review:

- a. Services provided to the resident;
- b. The resident's progress toward meeting service plan objectives;
- c. The resident's continuing needs and recommendations, if any, for further services and care;
- d. Reasons for discharge and names of persons to whom resident was discharged;
- e. Dates of admission and discharge; and
- f. Date the discharge summary was prepared and the signature of the person preparing it.

2. In lieu of a comprehensive discharge summary, the record of each resident discharged upon receipt of the order of a court of competent jurisdiction shall contain a copy of the court order.

22 VAC 42-11-750. Placement of Residents Outside the Facility.

A resident shall not be placed outside the facility prior to the facility's obtaining a child-placing agency license from the Department of Social Services except as permitted by statute or by

order of a court of competent jurisdiction.

22 VAC 42-11-760. Case Management Services.

A. The program of the facility, except a secure detention facility in which juveniles are not confined with a suspended commitment to the Department of Juvenile Justice, shall be designed to provide case management services which address:

1. Helping the resident and the parents or legal guardian to understand the effects on the resident of separation from the family and the effect of group living;
2. Assisting the resident and the family to maintain their relationships and prepare for the resident's future care;
3. Utilizing appropriate community resources to provide services and maintain contacts with such resources;
4. Helping the resident strengthen his capacity to function productively in interpersonal relationships;
5. Conferring with the child care staff to help them understand the resident's needs in order to promote adjustment to group living; and
6. Working with the resident and with the family or any placing agency that may be involved in planning for the resident's future and in preparing the resident for the return home or to another family, for independent living, or for other residential care.

B. The provision of case management services shall be documented in each resident's record.

22 VAC 42-11-770. Therapy.

Therapy, if provided, shall be provided by an individual (i) licensed as a therapist by the Department of Health Professions or (ii) who is licensure eligible and working under the supervision of a licensed therapist, unless exempted from these requirements under the *Code of Virginia*.

22 VAC 42-11-780. Structured Program of Care.

A. There shall be evidence of a structured program of care designed to:

1. Meet the residents' physical and emotional needs;
2. Provide protection, guidance, and supervision; and
3. Meet the objectives of any required service plan.

B. There shall be evidence of a structured daily routine designed to ensure the delivery of program services.

C. A daily communication log shall be maintained to inform staff of significant happenings or problems experienced by residents.

D. Health and dental complaints and injuries shall be recorded and shall include the (i) resident's name, complaint, and affected area and (ii) time of the complaint.

E. The identity of the individual making each entry in the daily activity log shall be recorded.

F. Routines shall be planned to ensure that each resident receives the amount of sleep and rest appropriate for his age and physical

condition.

G. Staff shall promote good personal hygiene of residents by monitoring and supervising hygiene practices each day and by providing instruction when needed.

H. The structured daily routine shall comply with any facility and locally imposed curfews.

22 VAC 42-11-790. Health Care Procedures.

A. The provider shall have and implement written procedures for promptly:

1. Providing or arranging for the provision of medical and dental services for health problems identified at admission;
2. Providing or arranging for the provision of routine ongoing and follow-up medical and dental services after admission;
3. Providing emergency services for each resident as provided by statute or by the agreement with the resident's legal guardian;
4. Providing emergency services for any resident experiencing or showing signs of suicidal or homicidal thoughts, symptoms of mood or thought disorders, or other mental health problems; and
5. Ensuring that the required information in 22 VAC 42-11-790. B is accessible and up-to-date.

B. The following written information concerning each resident shall be readily accessible to staff who may have to respond to a medical or dental emergency:

1. Name, address, and telephone number of the physician and dentist to be notified;
2. Name, address, and telephone number of a relative or other person to be notified;
3. Medical insurance company name and policy number or Medicaid number;
4. Information concerning:
 - a. Use of medication;
 - b. All allergies, including medication allergies;
 - c. Substance abuse and use; and
 - d. Significant past and present medical problems;
5. Written permission for emergency medical care, dental care, and obtaining immunizations or a procedure and contacts for obtaining consent; and
6. Subsections 3 and 5 do not apply to secure detention facilities except when a resident is confined in post-dispositional detention.

C. Facilities approved to provide respite care shall update the information required by subsection B of this section at the time of each stay at the facility.

22 VAC 42-11-800. Medical Examinations and Treatment.

A. Each child accepted for care shall have a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to admission to the facility or no later than seven days following admission except (i) the report of an examination within the preceding 12 months shall be acceptable if a child transfers from one residential facility licensed or certified by a state agency to

another, (ii) a physical examination shall be conducted within 30 days following an emergency admission if a report of physical examination is not available, and (iii) this requirement does not apply if a child is admitted to a secure detention facility or to a temporary care facility.

B. At the time of placement, except for secure detention and emergency placements, each resident shall have had a screening assessment for tuberculosis as evidenced by the completion of a screening form containing, at a minimum, the elements found on current screening form published by the Virginia Department of Health. The screening assessment can be no older than 30 days. Secure detention and emergency placements shall have completed the screening assessment on each resident within five days of placement.

C. A screening assessment for tuberculosis shall be completed annually on each resident as evidenced by the completion of a form containing, at a minimum, the elements of the screening form published by the Virginia Department of Health.

D. Each resident's health record shall include written documentation of (i) the initial physical examination, (ii) an annual physical examination by or under the direction of a licensed physician including any recommendation for follow up care, and (iii) documentation of the provision of follow-up medical care recommended by the physician or as indicated by the needs of the resident.

E. Each physical examination report shall include:

1. Information necessary to determine the health and immunization needs of the resident, including:
 - a. Immunizations administered at the time of the exam;
 - b. Vision exam;
 - c. Hearing exam;
 - d. General physical condition, including documentation of apparent freedom from communicable disease including tuberculosis;
 - e. Allergies, chronic conditions, and handicaps, if any;
 - f. Nutritional requirements, including special diets, if any;
 - g. Restrictions on physical activities, if any; and
 - h. Recommendations for further treatment, immunizations, and other examinations indicated;
2. Date of the physical examination; and
3. Signature of a licensed physician, the physician's designee, or an official of a local health department.

F. A child with a communicable disease shall not be admitted unless a licensed physician certifies that:

1. The facility is capable of providing care to the child without jeopardizing residents and staff; and
 2. The facility is aware of the required treatment for the child and the procedures to protect residents and staff.
- The requirements of this subsection shall not apply to temporary shelters and secure detention facilities.

G. Each resident's health record shall include written documentation of (i) an annual examination by a licensed dentist and (ii) documentation of follow-up dental care recommended by the dentist or as indicated by the needs of the resident. This requirement does not apply to secure detention facilities, temporary care facilities, and

respite care facilities.

H. Each resident's health record shall include notations of health and dental complaints and injuries and shall summarize symptoms and treatment given.

I. Each resident's health record shall include, or document the facility's efforts to obtain, treatment summaries of ongoing psychiatric or other mental health treatment and reports, if applicable. This subsection does not apply to secure detention facilities except when a juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice.

J. The provider shall develop and implement written policies and procedures, which include use of universal precautions and addresses communicable and contagious medical conditions. These policies and procedures shall be approved by a medical professional.

K. A well stocked first-aid kit shall be maintained and readily accessible for minor injuries and medical emergencies.

22 VAC 42-11-810. Medication.

A. All medication shall be securely locked and properly labeled.

B. All staff responsible for medication administration shall have successfully completed a medication training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medications before they can administer medication.

C. Staff authorized to administer medication shall be informed of any known side effects of the medication and the symptoms of the effects.

D. A program of medication, including over-the-counter medication, shall be initiated for a resident only when prescribed in writing by a person authorized by law to prescribe medication.

E. Medication prescribed by a person authorized by law shall be administered as prescribed.

F. A medication administration record shall be maintained of all medicines received by each resident and shall include:

1. Date the medication was prescribed;
2. Drug name;
3. Schedule for administration;
4. Strength;
5. Route;
6. Actual time administered;
7. Identity of the individual who administered the medication; and
8. Dates the medication was discontinued or changed.

G. In the event of a medication error or an adverse drug reaction, first aid shall be administered, if indicated. Staff shall promptly contact a poison control center, pharmacist, nurse, or physician and shall take actions as directed. If the situation is not addressed in standing orders, the attending physician shall be notified as soon as possible and the actions taken by staff shall be documented.

H. Medication refusals shall be documented including action taken by staff. The prescribing professional shall be contacted unless the refusal is addressed in standing orders.

I. The provider shall develop and implement written policies and procedures for documenting medication errors, reviewing medication errors and reactions and making any necessary improvements, the disposal of medication, the storage of controlled substances, and the distribution of medication off campus. The policy and procedures must be approved by a health care professional. The provider shall keep documentation of this approval.

J. The telephone number of a regional poison control center and other emergency numbers shall be posted on or next to each nonpay telephone that has access to an outside line in each building in which children sleep or participate in programs.

K. Syringes and other medical implements used for injecting or cutting skin shall be locked.

22 VAC 42-11-820. Nutrition.

A. Each resident shall be provided a daily diet which (i) consists of at least three nutritionally balanced meals and an evening snack, (ii) includes an adequate variety and quantity of food for the age of the resident, and (iii) meets minimum nutritional requirements and the U.S. Dietary Guidelines.

B. Menus of actual meals served shall be kept on file for at least six months.

C. Special diets shall be provided when prescribed by a physician and the established religious dietary practices of the resident shall be observed.

D. Staff who eat in the presence of the residents shall be served the same meals as the residents unless a special diet has been prescribed by a physician for the staff or residents or the staff or residents are observing established religious dietary practices.

E. There shall not be more than 15 hours between the evening meal and breakfast the following day.

Providers shall assure that food is available to residents who wish to eat breakfast before the 15 hours have expired.

G. Providers shall receive approval from their regulatory authority if they wish to extend the time between meals on weekends and holidays. There shall never be more than 17 hours between the evening meal and breakfast the following day on weekends and holidays.

22 VAC 42-11-830. Staff Supervision of Residents.

A. No member of the child care staff shall be on duty more than six consecutive days without a rest day, except in an emergency.

B. Child care staff shall have an average of at least two rest days

per week in any four-week period. Rest days shall be in addition to vacation time and holidays.

C. Child care staff other than live in staff shall not be on duty more than 16 consecutive hours, except in an emergency.

D. There shall be at least one trained child care worker, on duty and actively supervising residents at all times that one or more residents are present.

E. Whenever children are being supervised by staff there shall be at least one staff person present with a current basic certificate in standard first aid and a current certificate in cardiopulmonary resuscitation issued by the American Red Cross or other recognized authority.

F. Supervision Policies

1. The provider shall develop and implement written policies and procedures which address staff supervision of children including contingency plans for resident illnesses, emergencies, off campus activities, and resident preferences. These policies and procedures shall be based on the:

- a. Needs of the population served;
- b. Types of services offered;
- c. Qualifications of staff on duty; and
- d. Number of residents served.

2. At all times the ratio of staff to residents shall be at least one staff to eight residents for facilities during the hours residents are awake except when the lead regulatory agency has approved or required a supervision plan with a different ratio based on the needs of the population served.

3. Providers requesting a ratio that allows a higher number of

residents to be supervised by one staff person than was approved or required shall submit a justification to the lead regulatory agency which shall include:

- a. Why resident care will not be adversely affected and
- b. How residents' needs will be met, on an individual as well as group basis.

4. Written policies and procedures governing supervision of residents and any justifications for a ratio deviation that allows a higher number of residents to be supervised by one staff than was approved or required, shall be reviewed and approved by the regulatory authority prior to implementation.

5. The supervision policies or a summary of the policies shall be provided, upon request, to the placing agency or legal guardian prior to placement.

6. The Board of Juvenile Justice shall determine the supervision ratios for facilities regulated by the Department of Juvenile Justice.

22 VAC 42-11-840. Emergency Telephone Numbers.

A. There shall be an emergency telephone number where a staff person may be immediately contacted 24 hours a day.

B. Residents who are away from the facility and the adults responsible for their care during the absence shall be furnished with the emergency phone number.

22 VAC 42-11-850. Searches.

A. Strip searches and body cavity searches are prohibited except:

1. As permitted by other applicable state regulations; or
2. As ordered by a court of competent jurisdiction.

B. A provider that does not conduct pat downs shall have a written policy prohibiting them.

C. A provider that conducts pat downs shall develop and implement written policies and procedures governing them which shall provide that:

1. Pat downs shall be limited to instances where they are necessary to prohibit contraband;
2. Pat downs shall be conducted by personnel of the same gender as the resident being searched;
3. Pat downs shall be conducted only by personnel who are specifically authorized to conduct searches by the written policies and procedures; and
4. Pat downs shall be conducted in such a way as to protect the subject's dignity and in the presence of one or more witnesses.

22 VAC 42-11-860. Behavior Support.

A. Within 30 days of admission, the provider shall develop and implement a written behavior support plan that allows the resident to self-manage his own behaviors. Each individualized plan shall include:

1. Identification of positive and problem behavior;
2. Identification of triggers for behaviors;
3. Identification of successful intervention strategies for problem behavior;
4. Techniques for managing anger and anxiety; and
5. Identification of interventions that may escalate inappropriate behaviors.

B. Individualized behavior support plans shall be developed in consultation with the:

1. Resident;
2. Legal guardian;
3. Resident's parents, if applicable;
4. Program director;
5. Placing agency staff; and
6. Other applicable individuals.

C. Prior to working alone with an assigned resident each staff member shall demonstrate knowledge and understanding of that resident's behavior support plan.

22 VAC 42-11-870. Timeout.

A. The provider shall develop and implement written policies and procedures governing the conditions under which a resident may be placed in timeout and the maximum period of timeout. The conditions and maximum period of timeout shall be based on the resident's chronological and developmental level.

B. The area in which a resident is placed shall not be locked nor the door secured in a manner that prevents the resident from opening it, except that this subsection does not apply to secure custody facilities.

C. A resident in timeout shall be able to communicate with staff.

D. Staff shall check on the resident in the timeout area at least every 15 minutes and more often depending on the nature of the resident's disability, condition, and behavior.

E. Use of timeout and staff checks on the residents shall be documented.

22 VAC 42-11-880. Prohibitions.

The following actions are prohibited:

1. Deprivation of drinking water or food necessary to meet a resident's daily nutritional needs, except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;
2. Limitation on contacts and visits with the resident's attorney, a probation officer, regulators, or placing agency representative;
3. Bans on contacts and visits with family or legal guardians except as permitted by other applicable state regulations or by order of a court of competent jurisdiction;
4. Delay or withholding of incoming or outgoing mail, except as permitted by other applicable state and federal regulations or by order of a court of competent jurisdiction;
5. Any action which is humiliating, degrading, or abusive;
6. Corporal punishment;
7. Subjection to unsanitary living conditions;
8. Deprivation of opportunities for bathing or access to toilet facilities, except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;
9. Deprivation of health care;
10. Deprivation of appropriate services and treatment;
11. Application of aversive stimuli, except as permitted pursuant to other applicable state regulations;
12. Administration of laxatives, enemas, or emetics, except as ordered by a licensed physician or poison control center for a legitimate medical purpose and documented in the resident's record;
13. Deprivation of opportunities for sleep or rest, except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record; and
14. Limitation on contacts and visits with advocates employed by the Department of Mental Health, Mental Retardation and Substance Abuse Services or the Virginia Office of Protection and Advocacy.

22 VAC 42-11-890. Pharmacological or Mechanical Restraints.

A. Use of mechanical restraints is prohibited except, as permitted by other applicable state regulations or as ordered by a court of competent jurisdiction.

B. Use of pharmacological restraints is prohibited.

22 VAC 42-11-900. Behavioral Interventions.

The provider shall develop and implement written policies and procedures for behavioral interventions and for documenting and monitoring the management of resident behavior. Rules of conduct shall be included in the written policies and procedures. These policies and procedures shall:

Define and list techniques that are used and available for use in the order of their relative degree of restrictiveness;

Specify the staff members who may authorize the use of each technique; and

Specify the processes for implementing such policies and procedures

B. Written information concerning the policies and procedures of the provider's behavioral support and intervention programs shall be provided prior to admission to prospective residents, legal guardians, and placing agencies. For court ordered and emergency admissions, this information shall be provided to:

1. Residents within 12 hours following admission;

2. Placing agencies within 72 hours following the resident's admission; and

3. Legal guardians within 72 hours following the resident's admission, except that this requirement does not apply:

a. To secure detention facilities except when a juvenile is confined in post-dispositional;

b. When a facility is providing temporary care of 30 days or less while conducting a diagnostic evaluation to identify the most appropriate long-term placement for a child who has been committed to the Department of Juvenile Justice; and

c. When a state mental hospital is evaluating a child's treatment needs as provided by the *Code of Virginia*.

C. When substantive revisions are made to policies and procedures governing management of resident behavior, written information concerning the revisions shall be provided to:

1. Residents prior to implementation and

2. Legal guardians and placing agencies prior to implementation except that this requirement does not apply:

a. To secure detention facilities;

b. When a facility is providing temporary care of 30 days or less while conducting a diagnostic evaluation to identify the most appropriate long-term placement for a child who has been committed to the Department of Juvenile Justice; and

c. When a state mental hospital is evaluating a child's treatment needs as provided by the *Code of Virginia*.

D. The provider shall develop and implement written policies and procedures governing use of physical restraint which shall include:

1. The staff position who will write the report and timeframe;

2. The staff position who will review the report and timeframe;

and

3. Methods to be followed should physical restraint, less intrusive interventions, or measures permitted by other applicable state regulations prove unsuccessful in calming and moderating the

resident's behavior.

E. All physical restraints shall be reviewed and evaluated to plan for continued staff development for performance improvement.

F. Use of physical restraint shall be limited to that which is minimally necessary to protect the resident or others.

G. Trained staff members may physically restrain a resident only after less restrictive interventions have failed or when failure to restrain would result in harm to the resident or others.

H. Only trained staff members may manage resident behavior.

I. Each application of physical restraint shall be fully documented in the resident's record including:

1. Date;
2. Time;
3. Staff involved;
4. Justification for the restraint;
5. Less restrictive interventions which were unsuccessfully attempted prior to using physical restraint;
6. Duration;
7. Description of method or methods of physical restraint techniques used;
8. Signature of the person completing the report and date; and
9. Reviewer's signature and date.

J. Providers shall ensure that restraint may only be implemented, monitored, and discontinued by staff who have been trained in the proper and safe use of restraint, including hands-on techniques, if applicable, by an individual experienced in training staff in the management of behavior for the population served.

K. The provider shall review the facility's behavior intervention techniques and policies and procedures at least annually to determine appropriateness for the population served.

L. Anytime children are present staff must be present who have completed all trainings in behavior intervention.

22 VAC 42-11-910. Seclusion.

Seclusion is allowed only as permitted by other applicable state regulations.

22 VAC 42-11-920. Education.

Each resident of compulsory school attendance age shall be enrolled, as provided in the *Code of Virginia*, in an appropriate educational program within five school business days. Documentation of the enrollment process shall be kept in the resident's record.

B. The provider shall ensure that educational guidance and counseling in selecting courses is provided for each resident and shall ensure that education is an integral part of the resident's total program.

C. Providers operating educational programs for children with disabilities shall operate those programs in compliance with applicable state and federal statutes and regulations.

D. When a child with disabilities has been placed in a residential facility without the knowledge of school division personnel in the resident's home locality, the facility shall contact the division superintendent in that locality in order to effect compliance with applicable state and federal requirements relative to the education of children with disabilities. Documentation regarding the contact with the resident's home school locality shall be kept in the resident's record.

E. A provider that has an academic or vocational program that is not certified or approved by the Department of Education shall document that teachers meet the qualifications to teach the same subjects in the public schools.

F. Each provider shall develop and implement written policies and procedures to ensure that each resident has adequate study time.

22 VAC 42-11-930. Religion.

A. The provider shall have and implement written policies regarding opportunities for residents to participate in religious activities.

B. The provider's policies on religious participation shall be available to residents and any individual or agency considering placement of a child in the facility.

C. Residents shall not be coerced to participate in religious activities.

22 VAC 42-11-940. Recreation.

A. The provider shall have a written description of its recreation program which describes activities which are consistent with the facility's total program and with the ages, developmental levels, interests, and needs of the residents that includes:

1. Opportunities for individual and group activities;
2. Free time for residents to pursue personal interests which shall be in addition to a formal recreation program except this subdivision does not apply to secure custody facilities;
3. Use of available community recreational resources and facilities except this subdivision does not apply to secure custody facilities;
4. Scheduling of activities so that they do not conflict with meals, religious services, educational programs or other regular events; and
5. Regularly scheduled indoor and outdoor recreational activities that are structured to develop skills and attitudes.

B. The provider shall develop and implement written policies and procedures to ensure the safety of residents participating in recreational activities that include:

1. How activities will be directed and supervised by individuals knowledgeable in the safeguards required for the activities;
2. How residents are assessed for suitability for an activity and the supervision provided; and

3. How safeguards for water related activities will be provided including ensuring that a certified life guard supervises all swimming activities.

C. For all overnight recreational trips away from the facility the provider shall document trip planning to include:

1. A supervision plan for the entire duration of the activity including awake and sleeping hours;
2. Plan for safekeeping and distribution of medication;
3. Overall emergency, safety, and communication plan for the activity including emergency numbers of facility administration;
4. Staff training and experience requirements for each activity;
5. Resident preparation for each activity;
6. Plan to ensure that all necessary equipment for the activity is in good repair and appropriate for the activity;
7. Trip schedule giving addresses and phone numbers of locations to be visited and how the location was chosen/evaluated;
8. Plan to evaluate residents' physical health throughout the activity and to ensure that the activity is conducted within the boundaries of the resident's capabilities, dignity, and respect for self-determination;
9. Plan to ensure that a certified life guard supervises all swimming activities in which residents participate; and
10. Documentation of any variations from trip plans and reason; and reason for the variation.

D. All overnight out-of-state or out-of-country recreational trips require written permission from each resident's legal guardian. Documentation of the written permission shall be kept in the resident's record.

22 VAC 42-11-950. Community Relationships.

A. Opportunities shall be provided for the residents to participate in activities and to utilize resources in the community, except this section does not apply to secure custody facilities.

B. The provider shall develop and implement written policies and procedures for evaluating persons or organizations in the community who wish to associate with residents on the premises or take residents off the premises. The procedures shall cover how the facility will determine if participation in such community activities or programs would be in the residents' best interest.

C. Each facility shall have a staff community liaison who shall be responsible for facilitating cooperative relationships with neighbors, the school system, local law enforcement, local government officials, and the community at large.

D. Each provider shall develop and implement written policies and procedures for promoting positive relationships with the neighbors that shall be approved by the regulatory authority.

22 VAC 42-11-960. Clothing.

A. Provision shall be made for each resident to have an adequate supply of clean, comfortable, and well-fitting clothes and shoes for

indoor and outdoor wear.

B. Clothes and shoes shall be similar in style to those generally worn by children of the same age in the community who are engaged in similar activities, except this requirement does not apply to secure custody facilities.

C. Residents shall have the opportunity to participate in the selection of their clothing, except this requirement does not apply to secure custody facilities.

D. Residents shall be allowed to take personal clothing when leaving the facility.

22 VAC 42-11-970. Allowances and Spending Money.

A. The provider shall provide opportunities appropriate to the ages and developmental levels of the residents for learning the value and use of money, except this requirement does not apply to secure detention facilities.

B. There shall be a written policy regarding allowances which shall be made available to legal guardians at the time of admission, except that this requirement does not apply to secure detention facilities.

C. The provider shall develop and implement written policies for safekeeping and for recordkeeping of any money that belongs to residents.

A resident's funds, including any allowance or earnings, shall be used for the resident's benefit.

22 VAC 42-11-980. Work and Employment.

A. Assignment of chores, which are paid or unpaid work assignments, shall be in accordance with the age, health, ability, and service plan of the resident.

B. Chores shall not interfere with school programs, study periods, meals, or sleep.

C. Work assignments or employment outside the facility, including reasonable rates of pay, shall be approved by the program director with the knowledge and consent of the legal guardian, except this requirement does not apply to secure detention facilities.

D. In both work assignments and employment, the program director shall evaluate the appropriateness of the work and the fairness of the pay.

22 VAC 42-11-990. Visitation at the Facility and to the Resident's Home.

A. The provider shall have and implement written visitation policies and procedures which allow reasonable visiting privileges and flexible visiting hours, except as permitted by other applicable state regulations.

B. Copies of the written visitation policies and procedures shall be made available to the parents, when appropriate, legal guardians, the resident, and other interested persons important to the resident no later than the time of admission except that when parents or legal guardians do not participate in the admission process, visitation policies and procedures shall be mailed to them within 24 hours after admission.

C. In secure detention, except when a juvenile is confined in post-dispositional detention, and temporary care facilities, written visitation policies and procedures shall be provided upon request to parents, legal guardians, residents, and other interested persons important to the residents.

22 VAC 42-11-1000. Resident Visitation at the Homes of Staff.

If a provider permits staff to take residents to the staff's home, the facility must receive written permission of the resident's legal guardian or placing agency before the visit occurs. The written permission shall be kept in the resident's record.

22 VAC 42-11-1010. Vehicles and Power Equipment.

A. Transportation provided for or used by children shall comply with local, state, and federal laws relating to:

1. Vehicle safety and maintenance;
2. Licensure of vehicles;
3. Licensure of drivers; and
4. Child passenger safety, including requiring children to wear appropriate seat belts or restraints for the vehicle in which they are being transported.

B. There shall be written safety rules which shall include taking head counts at each stop, which are appropriate to the population served, for transportation of children.

C. The provider shall develop and implement written safety rules for use and maintenance of vehicles and power equipment.

22 VAC 42-11-1020. Reports to Court.

When the provider has received legal custody of a child pursuant to the *Code of Virginia*, copies of any foster care plans submitted to the court shall be placed in the resident's record.

22 VAC 42-11-1030. Serious Incident Reports.

A. Any serious incident, accident or injury to the resident; any overnight absence from the facility without permission; any runaway; and any other unexplained absence shall be reported within 24 hours: (i) to the placing agency, (ii) to either the parent or legal guardian, or both as appropriate and (iii) noted in the resident's record.

B. The provider shall document the following:

1. The date and time the incident occurred;
2. A brief description of the incident;
3. The action taken as a result of the incident;

4. The name of the person who completed the report;
5. The name of the person who made the report to the placing agency and to either the parent or legal guardian; and
6. The name of the person to whom the report was made.

C. The provider shall notify the regulatory authority within 24 hours of any serious illness or injury, any death of a resident, and all other situations as required by the regulatory authority. Such reports shall include:

1. The date and time the incident occurred;
2. A brief description of the incident;
3. The action taken as a result of the incident;
4. The name of the person who completed the report;
5. The name of the person who made the report to the placing agency and to either the parent or legal guardian; and
6. The name of the person to whom the report was made.

22 VAC 42-11-1040. Suspected Child Abuse or Neglect.

A. Written policies and procedures related to child abuse and neglect shall be distributed to all staff members. These shall include procedures for:

1. Handling accusations against staff; and
2. Promptly referring, consistent with requirements of the *Code of Virginia*, suspected cases of child abuse and neglect to the local child protective services unit and for cooperating with the unit during any investigation.

B. Any case of suspected child abuse or neglect shall be reported to the local child protective services unit as required by the *Code of Virginia*.

C. Any case of suspected child abuse or neglect occurring at the facility, on a facility-sponsored event or excursion, or involving facility staff shall be reported immediately (i) to the regulatory authority and placing agency and (ii) to either the resident's parent or legal guardian, or both, as appropriate.

D. When a case of suspected child abuse or neglect is reported to child protective services, the resident's record shall include:

1. The date and time the suspected abuse or neglect occurred;
2. A description of the suspected abuse or neglect;
3. Action taken as a result of the suspected abuse or neglect; and
4. The name of the person to whom the report was made at the local child protective services unit.

22 VAC 42-11-1050. Grievance Procedures.

A. The provider shall develop and implement written policies and procedures governing the handling of grievances by residents. If not addressed by other applicable standards, the policies and procedures shall:

1. Be written in clear and simple language;
2. Be communicated to the residents in an age or developmentally appropriate manner;
3. Be posted in an area easily accessible to residents and their parents and legal guardians;

4. Ensure that any grievance shall be investigated by an objective employee who is not the subject of the grievance; and
5. Require continuous monitoring by the provider of any grievance to assure there is no retaliation or threat of retaliation against the child.

B. All documentation regarding grievances shall be kept on file at the facility for three years unless other regulations require a longer retention period.

PART V DISASTER OR EMERGENCY PLANNING

22 VAC 42-11-1060. Emergency and Evacuation Procedures.

A. The provider shall develop a written emergency preparedness and response plan for all locations. The plan shall address:

1. Documentation of contact with the local emergency coordinator to determine local disaster risks and communitywide plans to address different disasters and emergency situations;
2. Analysis of the provider's capabilities and potential hazards, including natural disasters, severe weather, fire, flooding, work place violence or terrorism, missing persons, severe injuries, or other emergencies that would disrupt the normal course of service delivery;
3. Written emergency management policies outlining specific responsibilities for provision of administrative direction and management of response activities, coordination of logistics during the emergency, communications, life safety of employees, contractors, students, volunteers, visitors and residents, property protection, community outreach, and recovery and restoration;
4. Written emergency response procedures for assessing the situation; protecting residents, employees, contractors, students, volunteers, visitors, equipment and vital records; and restoring services. Emergency procedures shall address:
 - a. Communicating with employees, contractors and community responders;
 - b. Warning and notification of residents;
 - c. Providing emergency access to secure areas and opening locked doors;
 - d. Conducting evacuations to emergency shelters or alternative sites and accounting for all residents;
 - e. Relocating residents, if necessary;
 - f. Notifying family members and legal guardians;
 - g. Alerting emergency personnel and sounding alarms;
 - h. Locating and shutting off utilities when necessary;
5. Supporting documents that would be needed in an emergency, including emergency call lists, building and site maps necessary to shut off utilities, designated escape routes, and list of major resources such as local emergency shelters; and
6. Schedule for testing the implementation of the plan and conducting emergency preparedness drills.

B. The provider shall develop emergency preparedness and response training for all employees, contractors, students, and volunteers which shall include responsibilities for:

1. Alerting emergency personnel and sounding alarms;
2. Implementing evacuation procedures, including evacuation of residents with special needs (i.e., deaf, blind, non-ambulatory);
3. Using, maintaining, and operating emergency equipment;
4. Accessing emergency information for residents including medical information; and
5. Utilizing community support services.

C. The provider shall document the review of the emergency preparedness plan annually and make necessary revisions. Such revisions shall be communicated to employees, contractors, students, and volunteers and incorporated into training for employees, contractors, students and volunteers and orientation of residents to services.

D. In the event of a disaster, fire, emergency or any other condition that may jeopardize the health, safety and welfare of residents, the provider shall take appropriate action to protect the health, safety and welfare of the residents and take appropriate action to remedy the conditions as soon as possible.

E. Employees, contractors, students, and volunteers shall be knowledgeable in and prepared to implement the emergency preparedness plan in the event of an emergency.

F. In the event of a disaster, fire, emergency, or any other condition that may jeopardize the health, safety and welfare of residents, the provider should first respond and stabilize the disaster/emergency. After the disaster/emergency is stabilized, the provider shall report the disaster/emergency to the parent or guardian and the placing agency as soon as possible of the conditions at the facility and report the disaster/emergency to the lead regulatory authority as soon as possible, but no later than 72 hours after the incident occurs.

G. Floor plans showing primary and secondary means of egress shall be posted on each floor in locations where they can easily be seen by staff and residents.

H. The procedures and responsibilities reflected in the emergency procedures shall be communicated to all residents within seven days following admission or a substantive change in the procedures.

I. At least one evacuation drill (the simulation of the facility's emergency procedures) shall be conducted each month in each building occupied by residents.

J. Evacuation drills shall include, at a minimum:

1. Sounding of emergency alarms;
2. Practice in evacuating buildings;
3. Practice in alerting emergency authorities;
4. Simulated use of emergency equipment; and
5. Practice in securing resident emergency information.

K. During any three consecutive calendar months, at least one evacuation drill shall be conducted during each shift.

L. A record shall be maintained for each evacuation drill and shall

include the following:

1. Buildings in which the drill was conducted;
2. Date and time of drill;
3. Amount of time to evacuate the buildings;
4. Specific problems encountered;
5. Staff tasks completed including:
 - a. Head count, and
 - b. Practice in notifying emergency authorities;
6. A summary; and
7. The name of the staff members responsible for conducting and documenting the drill and preparing the record.

M. The record for each evacuation drill shall be retained for three years after the drill.

N. The facility shall assign one staff member who shall ensure that all requirements regarding the emergency preparedness and response plan and the evacuation drill program are met.

PART VI SPECIAL PROGRAMS

22 VAC 42-11-1070. Independent living programs

A. Each independent living program must demonstrate that a structured program using materials and curriculum, approved by the regulatory authority, is being used to teach independent living skills. The curriculum must include information regarding each of the following areas:

1. Money management and consumer awareness;
2. Food management;
3. Personal appearance;
4. Social skills;
5. Health/Sexuality;
6. Housekeeping;
7. Transportation;
8. Educational planning/career planning;
9. Job seeking skills;
10. Job maintenance skills;
11. Emergency and safety skills;
12. Knowledge of community resources;
13. Interpersonal skills/social relationships;
14. Legal skills;
15. Leisure activities; and
16. Housing.

B. Within 14 days of placement the provider must complete an assessment, including strengths and needs, of the resident's life skills using an independent living assessment tool approved by the regulatory agency. The assessment must cover the following areas:

1. Money management and consumer awareness;
2. Food management;
3. Personal appearance;
4. Social skills;
5. Health/Sexuality;
6. Housekeeping;
7. Transportation;
8. Educational planning/career planning;

9. Job seeking skills;
10. Job maintenance skills;
11. Emergency and safety skills;
12. Knowledge of community resources;
13. Interpersonal skills/social relationships;
14. Legal skills;
15. Leisure activities; and
16. Housing.

C. The resident's individualized service plan shall include, in addition to the requirements found in §22 VAC 42-11-630, goals, objectives, and strategies addressing each of the following areas, as applicable:

1. Money management and consumer awareness;
 2. Food management;
 3. Personal appearance;
 4. Social skills;
 5. Health/Sexuality;
 6. Housekeeping;
 7. Transportation;
 8. Educational planning/career planning;
 9. Job seeking skills;
 10. Job maintenance skills;
 11. Emergency and safety skills;
 12. Knowledge of community resources;
 13. Interpersonal skills/social relationships;
 14. Legal skills;
 15. Leisure activities; and
 16. Housing.

D. Each independent living program shall develop and implement policies and procedures to train all direct care staff within 14 days of employment on the content of the independent living curriculum, the use of the independent living materials, the application of the assessment tool, and the documentation methods used. Documentation of the orientation will be kept in the employee's staff record.

E. If residents age 18 years or older are to share in the responsibility for their own medication with the provider, the independent living program shall develop and implement written policies and procedures which include:

1. Training for the resident in self administration and recognition of side effects;
2. Method for storage and safekeeping of medication;
3. Method for obtaining approval for the resident to self administer medication from a person authorized by law to prescribe medication; and
4. Method for documenting the administration of medication.

F. Each independent living program shall develop and implement written policies and procedures that ensure that each resident is receiving adequate nutrition as required in § 22 VAC 42-11-820.A-C.

22 VAC 42-11- 1080. Mother/baby programs

A. Each provider shall develop and implement written policies and procedures to orient direct care staff within 14 days of hire regarding the following:

Responsibilities of mothers regarding the child;
Child development including age appropriate behavior for each
stage of development;
Appropriate behavioral interventions for infants and toddlers;
Basic infant and toddler care including but not limited to nutritional
needs, feeding procedures, bathing techniques; and
Safety issues for infants and toddlers.

B. Each direct care worker shall have certification in infant CPR and First Aid prior to working alone with infants or toddlers.

C. A placement agreement shall be signed by the legal guardian for each adolescent mother and a separate placement agreement shall be signed for each child at the time of admission.

D. In addition to the requirements of 22 VAC 42-11-680.B, the application for admission for the adolescent's child must include:
The placement history of the child;
The developmental milestones of the child; and
The nutritional needs of the child.

E. In addition to the requirements of 22 VAC 42-11-700, the face sheet for adolescent's child shall also include:

1. Type of delivery;
2. Weight and length at birth;
3. Any medications or allergies; and
4. Name and address, if known, of the biological father.

F. A combined service plan following the requirements of 22 VAC 42-11-720 must be written for the adolescent mother and her child within 30 days of the admission of the adolescent's child.

G. There shall be a combined documented review of the adolescent mother's and her child's progress following the requirements of the quarterly report 60 days following the first combined service plan and within each 90 day period thereafter.

H. The developmental milestones of the adolescent's child must be documented in each quarterly progress report.

I. The record of each child 18 months or younger shall include the child's feeding schedule and directions for feeding. This information shall be posted in the kitchen.

J. The provider shall develop and implement written policies and procedures for tracking:

1. What a child 18 months or younger is eating;
2. How much a child 18 months or younger is eating; and
3. The response to newly introduced foods of the child 18 months or younger.

K. The provider shall develop and implement written policies and procedures to record all diaper changes.

L. The provider shall monitor that all infants are held and spoken to and placed in a position to observe activities when they are awake.

M. Bottle fed infants who cannot hold their own bottles shall be held when fed. Bottles shall not be propped.

N. The provider shall monitor that all children of adolescent mothers have access to age-appropriate toys and are provided opportunity for visual and sound stimulation.

O. The provider shall ensure that when an adolescent mother is in school or is working, her child is appropriately cared for, either in a licensed child day program or at the facility.

P. A daily activity log must be kept for each child of the adolescent mother showing what activities the child actually participated in during the day. The daily log must show that children have the opportunity to participate in sensory, language, manipulative, building, large muscle, and learning activities.

Q. The provider shall develop and implement written policies and procedures regarding health care of the adolescent's child including:

1. Obtaining health care;
2. Ensuring follow-up care is provided;
3. Ensuring adolescent mothers administer to their children only prescription and non-prescription medication authorized by a health care professional licensed to prescribe medication; and
4. Medication administration.

R. The provider shall develop and implement written policies and procedures to ensure that all toys and equipment to be used by children are sturdy, of safe construction, are non-toxic and free of hazards, and meet industry safety standards.

S. The facility shall develop and implement written policies and procedures for inspecting toys and equipment on a regular basis for cleanliness and safety.

T. Cribs shall be placed where objects outside the crib such as cords from the blinds or curtains are not within reach of infants or toddlers.

U. Pillows and filled comforters shall not be used by children under two years of age.

V. Infant walkers shall not be used.

W. Adolescent mothers and their babies may share a bedroom as allowed by 22 VAC 42-11-480.E, but shall not share a room with other adolescents or their children.

X. Pregnant adolescents may share a room as allowed by 22 VAC 42-11-480.

Y. Providers shall develop and implement written policies and procedures to protect infants, toddlers, and young children from dangers in their environment. The policies and procedures must include but not be limited to protection from:

1. Electrocution;
2. Falling down steps or ramps or gaining access to balconies, porches or elevated areas;
3. Poisons, including poisonous plants; and
4. Drowning.

22 VAC 42-11 - 1090. Campsite programs or adventure activities.

A. All wilderness campsite programs and providers that take residents on wilderness/adventure activities shall develop and implement policies and procedures that include:

Staff training and experience requirements for each activity;
Resident training and experience requirements for each activity;
Specific staff-to-resident ratio and supervision plan appropriate for each activity; including sleeping arrangements and supervision during night time hours;
Plans to evaluate and document each participant's physical health throughout the activity;
Preparation and planning needed for each activity and time frames;
Arrangement, maintenance, and inspection of activity areas;
A plan to ensure that any equipment and gear that is to be used in connection with a specified wilderness/adventure activity is appropriate to the activity, certified if required, in good repair, in operable condition, and age and body size appropriate;
Plans to ensure that all ropes and paraphernalia used in connection with rope rock climbing, rappelling, high and low ropes courses or other adventure activities in which ropes are used are approved annually by an appropriate certifying organization, and have been inspected by staff responsible for supervising the adventure activity before engaging residents in the activity;
Plans to ensure that all participants are appropriately equipped, clothed, and wearing safety gear, such as a helmet, goggles, safety belt, life jacket or a flotation device, that is appropriate to the adventure activity in which the resident is engaged;
Plans for food and water supplies and management of these resources;
Plans for the safekeeping and distribution of medication;
Guidelines to ensure that participation is conducted within the boundaries of the resident's capabilities, dignity and respect for self-determination;
Overall emergency, safety, and communication plans for each activity including rescue procedures, frequency of drills, resident accountability, prompt evacuation, and notification of outside emergency services; and
Review of trip plans by the trip coordinator.

B. All wilderness campsite programs and providers that take residents on wilderness/adventure activities must designate one staff person to be the trip coordinator who will be responsible for all facility wilderness or adventure trips.

1. This person must have experience in and knowledge regarding wilderness activities and be trained in wilderness first aid. The individual must also have at least one year experience at the facility and be familiar with the facility procedures, staff, and residents.

2. Documentation regarding this knowledge and experience shall be found in the individual's staff record.

3. The trip coordinator will review all trip plans and procedures and will ensure that staff and residents meet the requirements as outlined in the facility's policy regarding each wilderness/adventure activity to take place during the trip.

4. The trip coordinator will review all trip plans and procedures and will ensure that staff and residents meet the requirements as outlined in the facility's policy regarding each wilderness/adventure activity to take place during the trip.

C. The trip coordinator shall conduct a post trip debriefing within 72 hours of the group's return to base to evaluate individual and group goals as well as the trip as a whole.

D. The trip coordinator will be responsible for writing a summary of the debriefing session and shall be responsible for ensuring that procedures and policies are updated to reflect improvements needed.

E. A trip folder will be developed for each wilderness/adventure activity conducted away from the facility and shall include:

1. Medical release forms including pertinent medical information on the trip participants;
2. Phone numbers for administrative staff and emergency personnel;
3. Daily trip logs;
4. Incident reports;
5. Swimming proficiency list if trip is near water;
6. Daily logs;
7. Maps of area covered by the trip; and
8. Daily plans.

F. Initial physical forms used by wilderness campsite programs and providers that take residents on wilderness or adventure activities shall include:

1. A statement notifying the doctor of the types of activities the resident will be participating in and
2. A statement signed by the doctor stating the individual's health does not prevent him from participating in the described activities.

G. First aid kits used by wilderness campsite programs and providers that take residents on adventure activities shall be activity appropriate and shall be accessible at all times.

H. Direct care workers hired by wilderness campsite programs and providers that take residents on wilderness/adventure activities shall be trained in a wilderness first aid course.

I. The provider shall ensure that before engaging in any aquatic activity, each resident shall be classified by the trip coordinator or his designee according to swimming ability in one of two classifications: swimmer and non-swimmer. This shall be documented in the resident's record and in the trip folder.

J. The provider shall ensure that lifesaving equipment is provided for all aquatic activities and is placed so that it is immediately available in case of an emergency. At a minimum, the equipment shall include:

- A whistle or other audible signal device; and
- A lifesaving throwing device.

K. A separate bed, bunk or cot shall be made available for each person.

L. A mattress cover shall be provided for each mattress.

M. Sleeping areas shall be protected by screening or other means to prevent admittance of flies and mosquitos.

N. Bedding shall be clean, dry, sanitary, and in good repair.

O. Bedding shall be adequate to ensure protection and comfort in cold weather.

P. Sleeping bags, if used, shall be fiberfill and rated for 0° F.

Q. Linens shall be changed as often as required for cleanliness and sanitation but not less frequently than once a week.

R. Each resident shall be provided with an adequate supply of clean clothing which is suitable for outdoor living and is appropriate to the geographic location and season.

S. Sturdy, water-resistant, outdoor footwear shall be provided for each resident.

T. Each resident shall have adequate personal storage area.

U. Fire extinguishers of a 2A 10BC rating shall be maintained so that it is never necessary to travel more than 75 feet to a fire extinguisher from combustion-type heating devices, campfires, or other source of combustion.

V. Artificial lighting shall be provided in a safe manner.

W. All areas of the campsite shall be lighted for safety when occupied by residents.

X. Staff of the same sex may share a sleeping area with the residents.

Y. A telephone or other means of communication is required at each area where residents sleep or participate in programs.



Proposed Regulation Agency Background Document

Agency name	Boards of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services
Virginia Administrative Code (VAC) citation	22 VAC 42-11-10 et.seq.
Regulation title	Standards for Interdepartmental Regulation of Children's Residential Facilities
Action title	Revise standards to meet current industry practices
Date this document prepared	03/13/2007

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

This action will repeal 22 VAC 42-10-10 et. seq. and adopt 22 VAC 42-11-10 et. seq. The Standards for Interdepartmental Regulation are used to regulate all children's residential facilities licensed or certified by the Departments of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services. The changes made to this regulation reflect the changes to the children's residential facility industry in recent years and the changes in federal requirements regarding record keeping and behavior management. The changes also incorporate the requirements found in Chapters 168 and 781 of the 2006 Acts of Assembly and replaces the emergency regulation. The new regulation will also better ensure that safeguards are in place to protect residents of children's residential facilities and that services are appropriate for these children.

Basis

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

§§ 22.1-321, 22.1-323, 22.1-323.2, 16.1-309.9, 66-10, 66-24, §37.2-403-422, 63.2-217, 63.2-1701, 63.2-1703, 63.2-1737, 63.2-203

The Boards of Education; Mental Health, Mental Retardation and Substance Abuse Services; Juvenile Justice; and Social Services are the promulgating entities. Regulation of children's residential facilities is mandatory.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

The purpose of the proposed action is to promulgate revised standards that better protect the health, safety and welfare of vulnerable children who are separated from their families and reside in children's residential facilities. The standards will assure that an acceptable level of care and education are provided to these children. Children placed in residential care typically need a higher level of service than can be provided in a foster home. It is important that staff who supervise these children have the appropriate knowledge and experience to make decisions regarding their care. The appropriate number of trained staff on duty is needed to give the children adequate time and attention to meet their needs. Staff also need the time to plan a structured program of care for the residents and to document planning and decision-making for each resident.

In the past, approximately 60 to 70 requests per year were received to operate a children's residential facility. Facilities were operated by organizations connected to groups with child welfare experience. Facilities were most often operated as nonprofits. Today the Office of Interdepartmental Regulation receives an average of 35 inquiries each month to operate a children's residential facility. Inquirers are private individuals who may not have had any children's residential experience. Many want to open for profit facilities.

The Joint Legislative Audit and Review Commission's (JLARC) report "Evaluation of Children's Residential Services Delivered Through the Comprehensive Services Act," December 2006 recommends that collecting licensure fees be considered. The report recommends that these fees be used to provide training. The report states that training of facility staff is not adequately addressed in the current standards. In order to ensure that residents receive the care and education they need, staff must have the training and experience, as well as the time, to make quality decisions about the residents they are serving. The proposed changes to the regulation concerning licensure fees, additional required training and additional qualifications for administrative staff address issues discussed in the JLARC report.

An emergency regulation was required by Chapters 168 and 781 of the 2006 Acts of Assembly. This proposed regulation is necessary to replace the emergency regulation as required by the *Code of Virginia*.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

Substantive changes that are being proposed include changing the process to issue licenses to facilities regulated by DOE, DMHMRSAS, and DSS to be able to change the type of license when compliance is an issue and adding the option of summary suspension of the license, to be consistent with the *Code of Virginia*; to strengthen the qualifications of the staff who make administrative and supervision decisions at the facility and to add requirements ensuring that a qualified staff person is available to make decisions. All training requirements are moved to one section for clarity and additional training is required as suggested by the JLARC report, "Evaluation of Children's Residential Services Delivered through the Comprehensive Services Act", December 2006. Requirements are added that ensure that educational services are provided to the child in a timely manner. Record keeping requirements are clarified and written to comply with federal guidelines. Requirements for medical treatment and medication are improved according to guidance received from medical professionals. Staff supervision ratios are changed to better meet current practice and child advocacy guidelines. Many facilities are already maintaining these ratios. Emphasis has been redirected from behavior management to behavior support and helping residents to manage their own behavior. Recreation guidelines are written to ensure better planning and supervision during overnight trips or activities. Emergency procedures requirements are strengthened to ensure better preparation for an emergency in today's environment. Special requirements are added for specialized independent living programs, mother/baby programs, and for camping programs and programs that take residents on adventure activities. Requirements have also been added for every facility to name a community liaison person and to train staff and have policies and procedures regarding positive community relations.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

Primary advantages to the public:

- Better ensures that children placed in residential facilities receive the care and education that they need by requiring an adequate number of qualified staff to work with them
- Families and parents that place their children in residential care are offered reassurance that their child is safe and that his needs are being met
- Better ensures that the tax payers money is used to pay for adequate services for children
- Neighbors of facilities will see that there are requirements in place to protect their interests

Primary Disadvantages to the public:

- Although many providers are already meeting the proposed standards, operators of facilities that currently are not meeting the revised standards may incur additional expenses

Primary Advantages to the Commonwealth:

- Better ensures that children placed in residential facilities receive the care and education that they need by requiring an adequate number of qualified and trained staff to work with them
- Better ensures that the services the Commonwealth pays for are received
- Better ensures that the Commonwealth meets federal standards (child welfare review, IV-E)

Primary Disadvantages to the Commonwealth

- None

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	No new costs – the state will have to print the regulation and offer training to regulators and providers.
Projected cost of the regulation on localities	No cost to the localities unless the locality operates a children’s residential facility that does not meet the new requirements.
Description of the individuals, businesses or other entities likely to be affected by the regulation	Families whose children are placed at residential facilities, businesses who operate a children’s residential facility
Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	Currently, there are approximately 304 children’s residential facilities.
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.	Cost will vary among the different facilities. Many of the currently regulated facilities already meet the requirements of the proposed regulation. Facilities that do not already meet the proposed changes will need to hire staff who meet the qualification requirements as staff leave and new staff are hired. Facilities that do not already meet the proposed staffing ratios will have to hire additional staff to meet staff ratios. Training costs may increase if the facility is not already training all staff in the proposed number of hours of initial and annual training.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

The only alternative is to leave current regulation unchanged and out of date with current child welfare standards and needs and out of compliance with federal regulation.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

There are no alternate regulatory methods for small businesses that can be used and still ensure that the appropriate protections, services and education are offered to residents of children’s residential facilities.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
1 Provider	Supports the plan to revise the regulation	The revision will move forward.
1 Provider group Virginia Association of Children’s Homes (VACH)	<p>Opposed the revision of the regulation. Submitted a “White Paper” which included the following:</p> <ul style="list-style-type: none"> • Two issues are driving the revision – the increase in applications to operate children’s residential facilities and the effort to fund children in residential care with Medicaid (revision mirrors Medicaid standards) • Observations – would support many of the proposed changes; oppose changing the word child to client which represents a shift to medical model and more restrictive placements; one size does not fit all - recommend modules; 1:6 staff to child ratio does not account for type of child served; recommend a cost analysis-facilities do fundraising and money would be lost from those who believe in family style atmosphere, predict cost to VACH agencies to be \$15 million • Recommend new facilities have different standards; ratio is too restrictive and does not look at type of child served; qualifications for staff mirror Medicaid, 	<p>The revision will move forward.</p> <p>The “White Paper” which offers some important suggestions also contains erroneous information and makes assumptions that are not accurate.</p> <p>The issues driving the proposed revision to the regulation include:</p> <ul style="list-style-type: none"> • Child welfare practices are always evolving/ the regulation needed to be updated to reflect current practices • All regulations are required to be reviewed every 4 years. A period review was due for the Interdepartmental Standards • The children’s residential facility industry has changed in Virginia which has lead to an increase in applications to operate facilities as noted in the White Paper. Previously, children’s residential facilities have been operated by child welfare organizations, hospitals or religious groups, the majority as nonprofit organizations. The recent trend is for private citizens to apply to operate facilities on a for profit basis. The proposed revision attempts to ensure that all facilities, regardless of when they opened, operate with qualified staff making appropriate programmatic decisions based on child welfare experience and education. The revision is also written to ensure that there are enough staff at the facility to meet the needs of the

	<p>standards shouldn't set personnel qualifications, recommended degrees too limited, Masters degree is cumbersome and limited, limits pool of employees, incorporates medical model mind set</p> <ul style="list-style-type: none"> Proposed standards to plan for all day trips and overnight trips is egregious and overbearing, supports medical model, many facilities are family style Standard that requires prescription of over-the-counter medications is unnecessary and seems to comply with Medicaid standards, standard to contact doctor if child refuses medicine unless refusal is addressed in standing orders is unnecessary and overburdening Conclusion – support efforts to improve services but proposed changes will prevent any facility from using the home-like approach, children at VACH facilities would be forced into more restrictive facilities; concerned about one size fits all and medical model on programs with successful service to children using the social service model; need to ensure that new programs provide quality care; costs need to be considered 	<p>children served.</p> <ul style="list-style-type: none"> The Regulation needed to be in compliance with Federal statutes and procedures (most notably HIPAA) <p>The <i>Standards for Interdepartmental Regulation of Children's Residential Facilities</i> are not based on funding requirements. The Office of Interdepartmental Regulation received no directive to "turn facilities into treatment facilities." Proposed revisions are based on current child welfare practices and the goal to offer children placed in all different types of residential facilities quality care and service.</p> <p>In most cases, to be a treatment facility, the facility would have to be licensed by DMHMRSAS. Treatment facilities must serve a mental health population and provide treatment by qualified staff, at the facility. Treatment facilities must comply with the <i>Rules and Regulations to Assure the Rights of Individuals Receiving Services From Providers of Mental Health, Mental Retardation and Substance Abuse Services and Regulations for Providers of Mental Health, Mental Retardation and Substance Abuse Residential Services for Children</i>, the DMHMRSAS module. Staff ratios for treatment facilities are often more strict than the proposed general 1:6 staffing ratio. For group homes that want to receive Medicaid staffing, ratios are 1 staff to every 4 children. (Many of the facilities that belong to VACH are ineligible to apply for Medicaid for group homes as their capacities exceed Medicaid limits.) There are no proposed standards to require facilities to be licensed by DMHMRSAS, to serve a mental health population, to offer treatment at the facility or to become Medicaid eligible.</p> <p>The word client is <u>not</u> used in the proposed revision to the regulation. The word resident is used most often to refer to a child placed in a facility. The term resident is used in the current regulation.</p> <p>The Interdepartmental Regulation Program was created to insure that all children's residential facilities are regulated on a consistent basis using one set of standards. This was to eliminate the problems that were occurring before the Interdepartmental Regulation Program was begun - repetitious licensing investigations from different licensing agencies and facilities being told different things by different agencies. The <i>Standards for Interdepartmental Regulation of Children's Residential Facilities</i> are written in such a way as to be suitable for all types of facilities serving many different populations and are flexible to</p>
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	<p>accommodate many different program models. For example, often the regulation asks for the policies and procedures to be written for a certain issue. Policies and procedures for a treatment facility serving emotionally disturbed children would be very different from the policies and procedures written for a facility whose primary focus is to teach independent living skills to children transitioning out of foster care. DMHMRSAS, DOE, and DJJ already have module standards to address issues specific to facilities regulated by these agencies.</p> <p>The proposed standards would not prevent a facility from operating a “family style” program. House parent models are not prohibited.</p> <p>The standard requiring a doctor’s prescription for over-the –counter drugs is currently a standard and is not a new proposal. All standards regarding health care are reviewed and approved and often proposed by the Virginia Department of Health medical experts.</p> <p>While working on the proposed revisions many other states standards were reviewed, as well as, the recommendations of the Child Welfare League of America for residential facilities. Issues regarding staff ratios and qualifications for staff were discussed with the Interdepartmental Regulation Advisory Committee where provider groups, including VACH, are represented, to give feedback to the revision committee. Information was also received from other providers, regulators and placing agencies.</p> <p>VACH is represented on the Interdepartmental Regulation Advisory Committee. They had access to all discussions regarding the possibility of a revision as well as access to all proposed working papers. A VACH member also served on the Revision Committee. No issues, as presented in the “White Paper,” were mentioned during these meetings.</p> <p>Various members of VACH have met with Charlene Vincent, the Coordinator of the Office of Interdepartmental Regulation and Leslie Knachel, the DSS Child Welfare Licensing Administrator for VACH programs. Maurice Jones, Commissioner of DSS and chair of the Interdepartmental Regulation Committee has also met with various members of VACH and has visited one facility. On June 9, 2004, Commissioner Jones, Ms. Vincent, Ms. Knachel, and representatives from the other participating departments met with representatives of VACH. On July 9, 2004, Ms. Vincent and Ms. Knachel met with the VACH</p>
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		<p>president and another VACH representative to go over the entire regulation to clear up any miscommunication. At every meeting VACH was encouraged to submit public comment during the proposed public comment period. They were encouraged to submit statistics and facts to support their public comment and to offer their solutions to help the revision committee and others who would be reviewing the public comment, make good decisions.</p> <p>VACH has approximately 17 member facilities. Three facilities are not regulated under the <i>Standards for Interdepartmental Regulation of Children's Residential Facilities</i>. Currently, there are approximately 275 facilities licensed under the Interdepartmental Program.</p> <p>In fairness to all facilities affected by the Interdepartmental Regulation Program and to other interested parties including local governments, placing agencies, and neighbors of residential facilities, the Coordinating Committee determined that it would be best to receive all comments regarding the proposed revision during the proposed public comment period when all interested parties have equal access to the proposed draft.</p>
<p>50 individuals associated with VACH</p>	<p>Comments from individuals associated with VACH are all variations of the themes presented in the "White Paper"</p> <p>Thirteen copies of the same letter from individuals at one facility. Want the revision to focus on new facilities. Doesn't think a more restrictive staff to child ratio considers the needs of children; thinks staff requirements mirror Medicaid requirements; thinks standards regarding recreational trips are overbearing; doesn't believe it is necessary to have a prescription for over-the-counter medication and doesn't want to report to a doctor refusals of medication; believes changes will prevent programs from having a home-like approach; concerned about cost of changes; believes changes would force a medical model on all programs and force children into programs with a medical model.</p> <p>Thirteen copies of the same letter with different signatures (faxed twice) requested a public hearing to</p>	<p>The revision will move forward. VACH members have been encouraged to submit specific public comment during the proposed public comment period.</p>

discuss revisions found in the working papers; believed that facilities serving children are already successful; believes that Virginia already has the most rigorous regulations of any neighboring state; costs will rise; and believes that agencies who care for children do fundraising and save the state money.

A letter similar to the letters above but also stating opposition to forcing facilities into "treatment modalities."

Six letters from individuals from another facility with similar concerns as those already summarized - revisions concerning staff qualifications will increase costs, Virginia's regulations are more stringent than neighboring states, revisions will force providers to become treatment facilities, and new revisions call the child a client.

Nine letters from individuals connected with another provider expressed similar concerns about not being able to provide a home-like environment and having to provide a treatment facility; believing their program works well without making proposed changes; believing the purpose of the revision is for Medicaid billing, reporting Medication refusals is not important; checking on children in confinement every 15 minutes takes time away from other children; requiring stricter ratios and more qualified staff will close non-profit facilities; planning for recreation trips takes time away from children

One letter from a director of a facility wants a cost impact study to be conducted regarding proposed changes. Welcomes many proposed changes; suggests that new facilities have separate standards; opposes the stricter staff ratio of 1:6 but would not oppose a staff ratio of 1:8 as he recognizes that the needs of children are more and more difficult; opposes the staff qualification standards and prefers more open standards; opposes standards requiring planning for recreational trips; opposes having to notify the doctor if a child refuses

medication; opposes the standard that requires prescriptions for over-the-counter medication

A board member of a facility supports the VACH White paper.

Another provider asked questions regarding the proposed standards in the working papers. This provider is opposed to requiring a Masters degree; to having 1:6 ratio while children are asleep; planning for recreation trips. The provider is also concerned about cost.

Two letters from staff of another facility state that the revisions found in the working papers would rule this facility out as a resource for children. They believe new facilities should identify their populations from the onset. They believe the proposed revisions have the intent to make facilities become Medicaid providers and this facility does not provide treatment.

Another provider states that the revision is an attempt to get all facilities to become Medicaid providers. They can not offer a homelike environment if they have to become treatment facilities. The proposed stricter staff ratios will increase costs. The provider opposes the change to check children in confinement every 15 minutes from every 30 minutes as it would take too much staff time.

Another individual is against the proposed changes as they do little to add to services but increase costs. He opposes the stricter staff to child ratio and opposes calling the residents clients.

In four of the letters summarized above the writer indicated opposition to any revision of the regulation.

A director of another facility that is not regulated under the *Standards for Interdepartmental Regulation of Children's Residential Facilities* and who would not be affected by the change in this regulation wrote that the change in this regulation would force this facility to become a

	treatment a facility and would increase the facility's costs. He also commented that Virginia has the most vigorous regulations of any neighboring state.	
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Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The changes to the regulation will better assure families that must place their children in a residential facility that safeguards exist to protect their child and that adequate care and education are provided.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
10	10	Definitions of terms used in the regulation.	*Deleted the following definitions as they are no longer found in the regulation: adaptive behavior, boot camp, chemical restraint, client, confinement, intrusive aversive therapy, public funding, responsible adult.
10	10	Definition of residential facility for children	*Changed to Children's Residential Facility to be consistent. Also corrected a reference to DMHMRSAS regulation.
NA	NA	NA	*Throughout the regulation changed the word facility to provider where appropriate.
NA	10	Definitions	*Adds a definition of annual for clarification of annual reports and inspections.
10	NA	Definitions	Adds a definition of behavior support assessment as a requirement for a behavior support assessment is being added to the application section as a protection to children

			and to ensure facility staff can manage the children they accept.
10	10	Definition of compliance plan	*Changed to "Corrective Action Plan" for consistency.
10	10	Confined in detention with a suspended commitment to the Department of Juvenile Justice	*Changed to "confined in post-dispositional detention" to coincide with Virginia Code.
10	10	Definitions of terms used in the regulation.	*Added DJJ as the other agency abbreviations were listed.
10	10	Definition of residential facility for children included the definition of group home	*Separated the definition of group home from the definition of a residential facility for children to decrease the confusion on where to locate the definition. Added children's residential facility to clarify that a group home is a children's residential facility.
10	10	Definitions used in the regulation	*Added a definition of health record to clarify for HIPAA purposes.
10	10	Independent living	*Added competency-based to the definition of independent living.
10	10	Individualized service plan	*Added "measurable" and "goals and objectives" to the definition of individualized service plan.
10	10	Mechanical restraint	*Revised the definition to be consistent with the "Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services" - 12 VAC 35 -115 et seq. (Human Rights Regulation)
10	10	Medication error	*Clarified the definition by adding that when a resident refuses medication this should not be considered a medication error.
10	10	Definitions used in the regulation	*Added a definition of personal health information.
10	10	Definitions used in the regulation	*Added a definition of pharmacological restraint to be consistent with Human Rights Regulation.
10	10	Physical restraint	*Revised the definition to be consistent with Human Rights Regulation.
10	10	Program	*Deleted the definition of program and replaced with "structured program of care."
10	10	Licensee	*The term provider and licensee are interchangeable.
10	10	Definitions used in the regulation	*Added the definition of regulatory authority as it is now used in the regulation.
10	10	Resident	*Revised the definition of resident as preplacement visits are no longer required.
10	10	Rest day	*The definition was simplified.
10	10	Routine admission	*The words "completion of a preplacement visit" were deleted as the preplacement visit requirement is being deleted.
10	10	Temporary contract worker	*Definition added
10	10	Time out	*Revised to be consistent with Human Rights Regulation
10	10	Treatment	*Revised to be consistent with DMHMRSAS definition.
10	10	Wilderness Camp	*Changed to wilderness program.
NA	20	NA	Adds a requirement that DOE, DJJ, DMHMRSAS and DSS assist and cooperate

			with each other in the licensing and certification of children's residential facilities. Consistent regulation of children's residential facilities will promote the health, safety and welfare of the residents.
20	30	Applications	<ul style="list-style-type: none"> • *For clarification a complete listing of documents that are required for an initial application was added to the section. • *Added a requirement that new applications which are not complete in 12 months will be closed to clarify procedures. • *Added a requirement that a provider must substantially comply with applicable regulations before new facilities can be licensed to clarify procedures.
30	50	Visitation of facilities	<ul style="list-style-type: none"> • *Changes the word visit to review. • Adds a requirement that the regulatory authority shall notify relevant local governments and placing and funding agencies, including CSA, of multiple health and safety or human rights violations in children's residential facilities when the violations result in a provisional license. This requirement will give placing agencies information to make appropriate placement decisions.
NA	60	NA	Adds requirements for posting information on a web site regarding children's residential facilities. This will give the public, as well as placing agencies, information about facilities and facilities in application.
35	70	General requirements	<ul style="list-style-type: none"> • *Deleted the requirement that corporations not organized and empowered solely to operate residential facilities for children shall provide for such operations in their charters as this is no longer necessary. • *Deleted "in addition to the sanctions specified in this chapter" from former standard 35.G as no additional sanctions are listed. • Adds a requirement that facilities self-report within 72 hours lawsuits or settlements with residential facility operators relating to health and safety or human rights of residents and any criminal charges against staff that may have been made relating to the health and safety or human rights of residents. This requirement will allow others to have this information when making decisions. • *For clarification added a

			<p>requirement that the provider be in compliance with federal, state, or local laws and regulations.</p> <ul style="list-style-type: none"> *Added a requirement that providers must keep a current policy and procedures manual accessible to staff. *Added a requirement that the provider shall comply with their own policies and procedures.
NA	80	Written corrective action plans	*For clarity added a section regarding corrective action plans stating what is required and timeframes for the return of the corrective action plan.
40	90	Licenses and certificates	<ul style="list-style-type: none"> Allows the facility's license or certificate to be modified during the licensure or certification period if there is a change in compliance. This will allow the licensure period to be reduced if a facility is not in compliance with standards. (Changes regulation to be consistent with <i>Code of Virginia</i>.) *All references to corrective action regarding systemic deficiencies were deleted as most systemic deficiencies are cited at the time the license is issued. There is no time to take corrective action.
50	100	Stated no fee would be charged.	*Establishes a \$500 fee for initial application fee and a \$100 fee for renewal application. No fees will be charged to state or locally operated facilities. Fees to be used for training as suggested by JLARC study,
60	110	Modification	*Clarified the standard by adding gender to the reasons a license could be modified; clarified that limited modifications would be approved during a conditional licenses; simplified the language of the standard; clarified where the request for modification should be sent.
70	120	Denial	*Added history of adverse licensing actions or sanctions to reasons for denial.
80	130	Revocation	Deleted subsection as it was repetitive.
NA	140	NA	Adds the procedures for summary suspension to be consistent with <i>Code of Virginia</i> . In egregious situations, this will allow the lead regulatory agency to remove the residents during the pendency of the revocation, denial, or other action.
90	150	Variance	*The elements of a variance request were added back into the standard, as requested by regulators.
110	180	Responsibilities of the provider	<ul style="list-style-type: none"> *The requirement to designate a qualified staff person to assume responsibility of the chief administrative officer in his absence was replaced with a requirement to develop and implement a decision making plan including an

			<p>organizational chart to clarify who can make decisions.</p> <ul style="list-style-type: none"> • *The requirement of the provider to review the program annually was revised to require that the provider develop policies and procedures to evaluate service quality and effectiveness to ensure that providers are evaluating their services. • *The provider is required to make improvements as identified by the on-going evaluation.
120	190	Fiscal accountability	*The provider is required to develop policies and procedures to address the day-to-day handling of funds.
130	200	Insurance	*The requirement to maintain liability insurance on vehicles was revised to require documentation showing that all vehicles used to transport residents are insured, including vehicles owned by staff, as many providers ask that staff use their own vehicles.
150	220	Weapons	<ul style="list-style-type: none"> • *Added the possession of licensed law enforcement officers as facilities sometimes have officers come to their facilities. • *Added facility related activities to cover when residents and staff may be off premises. • *Added a requirement that if residents are to use weapons permission from the resident's legal guardian is required.
160	230	Relationship to the regulatory authority	*This standard was revised to correct a contradiction with the standard regarding modification.
180	250	Health information	<ul style="list-style-type: none"> • *Added that health information should be maintained in a confidential manner. • Each new staff person should obtain a screening assessment for TB as evidenced by a completed form with the elements contained on a current risk assessment screening form published by the VA Department of Health. The risk assessment must be completed at the time of hire and no earlier than 30 days before the date of hire. Deletes exceptions. This is the Department of Health's recommendation. • Each staff person shall have an annual screening assessment as evidenced by a completed form containing the elements of the current risk assessment screening form published by the VA Department of Health.

			Protects children from TB and protects staff from unnecessary medical procedures.
200	270	Qualifications	Updates the name of the Virginia Department of Personnel and Training to Human Resource Management.
210	280	Job description	Added a requirement that minimum education and experience be added to the job description to insure that staff have the proper qualifications.
220	290	Written personnel policies and procedures	<ul style="list-style-type: none"> • *Clarified that the provider have approved policies and procedures as some providers cannot approve their own policies and procedures as they are part of a bigger organization e.g. local government. • Added a requirement that individuals hired for a position have the education and experience for the position as described in the job description. • Deletes requirements regarding child abuse and neglect, because they are in section 960 of the current regulation.
230	300	Personnel records	<ul style="list-style-type: none"> • *Added that providers keep personnel records on student/interns. • *Allows providers to use a unique identifier instead of a social security number to protect against identity theft. • Added a requirement that documentation of educational degrees and professional certification be kept in the record. • Added that documentation of medication, first aid, CPR, and all other training be kept in the record. This will help determine staff qualifications. • *Added student/intern records must be kept for 3 years. • *Added health records can be maintained separately as required by federal regulation.
240	310	Staff development	<ul style="list-style-type: none"> • *Added that employees transferring from other facilities operated by the provider be given orientation and training regarding the new facility. • *Changed the requirement for new employees, volunteers, students to have orientation and training regarding the facility within 14 days instead of 30 days. • *Added that part of this orientation include information about the provider's decision making plan and the Interdepartmental Standards, including the prohibited actions outlined in the standards.

			<ul style="list-style-type: none"> • *Reorganized all training requirements and brought all requirements to this section. • *Added initial and annual training requirements for emergency response. • Required that all staff working with residents be enrolled in CPR and first aid classes within 30 days of hire. • *Added a requirement that all staff be trained within 30 days on the provider's policies and procedures regarding universal precautions and annually thereafter. • *Requires that all staff working with residents be trained in child abuse and neglect, mandatory reporting, boundary issues, and suicide prevention within 30 days of hire and annually. • *Requires an additional 15 hours of training. • *Added a requirement that policies and procedures be developed to require training for part time staff. • *Training must be comprehensive and ensure that staff have the competencies to perform their duties. <p>Increased training was recommended by JLARC study.</p>
250	320	Supervision	*Requires policies and procedures for supervision of staff, volunteers and student/interns.
NA	330	NA	Adds requirements for the applicant. The applicant must be trained on the siting of a facility, the applicant must be interviewed in person by the regulatory authority to determine qualifications and the applicant must hire someone with the required qualifications to be chief administrative officer if the applicant is not qualified. This will better ensure that the person making administrative decisions at the facility is qualified.
260	340	Chief administrative officer	<ul style="list-style-type: none"> • Added duties of the chief administrative officer as these duties are critical to the successful operation of the facility and involve decisions that need to be made by qualified staff. • *Increased the qualification requirements of the CAO to include a Master's degree in social work, psychology, counseling, or nursing and 2 years experience of full time work experience in a children's residential facility and 1 year

			<p>experience in an administrative or supervisory capacity; <u>or</u> a baccalaureate degree in social work, psychology, counseling, or nursing and 3 years full time work experience with children at least 2 of which were in a children's residential facility and 1 year of administrative or supervisory experience; <u>or</u> a master's degree in education and 2 years of full time experience in a children's residential facility and 1 year full time experience in an administrative or supervisory capacity or a baccalaureate degree in education and 3 years of full time experience with children at least 2 of which were in a children's residential facility and 1 year of administrative experience may be accepted for a program whose lead agency is the Department of Education; <u>or</u> a baccalaureate degree and 7 years of full time paid work experience with children at least 4 of which shall be in a children's residential facility and 2 years of administrative or supervisory experience.</p> <ul style="list-style-type: none"> • Adds that the chief administrative officer must provide transcripts within 30 days of hire certified by the accredited college or university of attendance and documentation of prior relevant experience to ensure the program director is qualified to work with the residents.
270	350	Program director	<ul style="list-style-type: none"> • Changes the title of the section to Program Director. • Added the duties of overseeing assessments, service planning, staff scheduling, and supervision to clarify who should be performing these critical functions. • *Increased the requirements to a master's degree in social work, psychology, counseling, or nursing and 2 years of full time paid work experience with children one of which needs to be in a children's residential program and 1 year of administrative or supervisory experience; <u>or</u> a baccalaureate degree in social work, psychology, counseling, or nursing and 3 years full time paid experience working with children, 1 of which must be in a children's residential facility and 1 year of administrative or supervisory experience; <u>or</u> a baccalaureate

			<p>degree and 5 years of full time paid experience working with children, at least 3 of which must be in a children's residential facility and 1 year of full time supervisory or administrative experience, or a master's degree in education and 2 years of full time aid work experience with children, 1 in a children's residential facility and 1 year of administrative/supervisory experience or a baccalaureate degree in education with an endorsement in at least 1 area of disability served by the program and 3 years full time paid experience working with children, 1 in a children's residential facility and 1 year administrative/supervisory experience for a program director of a program whose lead agency is the Department of Education.</p> <ul style="list-style-type: none"> • Adds the program director must provide transcripts within 30 days of hire certified by the college or university of attendance and documentation of prior relevant experience to ensure the program director is qualified to work with the residents.
NA	360	Case manager	<ul style="list-style-type: none"> • *Added a requirement for a case manager. • *Case managers shall have the responsibility for: <ul style="list-style-type: none"> ○ Coordination of all services offered to each resident ○ Provision of social services as required in 720.A • *Case managers shall have: A master's degree in social work, psychology, or counseling; <u>or</u> baccalaureate degree in social work or psychology with documented field work experience and must be supervised by the program director or other staff employed by the provider with the same qualifications as required by 350.D; <u>or</u> a baccalaureate degree and 3 years of full time experience working with children with at least 1 year in a children's residential facility <p>Added to ensure that someone qualified is making the decisions at the facility on a day-to-day basis.</p>
280	370	Child care supervisor	<ul style="list-style-type: none"> • *Separated the child care supervisor from the rest of the child care staff standard so it would be more visible. • *Added duties for the child care

			<p>supervisor.</p> <ul style="list-style-type: none"> *Changed qualification requirements to a social work or psychology baccalaureate degree and 2 years of full time paid experience with children with 1 year in a children's residential facility, kept option of high school or GED with a minimum of 5 years experience with 2 at a children's residential facility. Added a combination of education and experience working with children as approved by the lead regulatory agency.
280	380	Child care staff	<ul style="list-style-type: none"> *Added qualification requirements for a baccalaureate degree in human services or an associates degree and three months experience working with children, or a high school degree or GED and 6 months experience. *Also have option of a high school degree/GED and no experience as long as the person does not work alone and is working with the child care supervisor, the chief administrative officer, the program director, or the case manager. *Increased age of child care workers from 18 to 21. *Added the requirement that the provider could not be dependent on temporary contract workers (added definition) to provide direct care.
290	390	Relief Staff	<ul style="list-style-type: none"> *Changed wording to say that enough relief staff must be available to maintain the structured program of care. Relief child care staff requirements added in child care section.
300	NA	Medical Staff	*This section was deleted as all requirements were moved to other sections or were repetitive.
310	400	Volunteers and student interns	<ul style="list-style-type: none"> *Deleted the requirements that volunteers comply with confidentiality policies as it is covered in another section of the standards. *Deleted the requirement that volunteers be informed of liability protection as this is good practice but not a regulatory issue.
330	420	Buildings, inspections and building plans	<ul style="list-style-type: none"> Adds to the requirement that buildings provide adequate space and be of a design suitable to house the programs and services provided, that physical environment also shall provide adequate space and design. Also, adds the requirement that buildings and physical environment

			<p>meet the specialized needs of the residents. This will ensure that the residential environment will be suitable for the population served.</p> <ul style="list-style-type: none"> • *Deleted the requirement that the certificate of occupancy state the proposed use of the building as many localities will not do this. • *A change was made to allow swimming pool companies to inspect swimming pools at the suggestion of the Department of Health.
335	430	Heating systems, ventilation and cooling systems	<ul style="list-style-type: none"> • *The lowest temperature of a living area was increased from 65° to 68° F. • *The highest temperature of a living area was decreased from 85° to 80° F.
340	440	Lighting	*Combined 2 standards to require lighting to be sufficient for safety and for activities performed.
350	450	Plumbing	<ul style="list-style-type: none"> • *A requirement for mixing faucets was deleted as the use of mixing faucets is the accepted practice of builders at this time. The Department of Housing and Community Development advised that this requirement was no longer needed. • *Added that water temperatures should be maintained at 100°-120° F.
360	460	Toilet facilities	*All facilities licensed after the effective date of these standards will be required to have 1 toilet, 1 hand basin, and 1 shower or tub for every 4 residents.
370	470	Personal necessities	<ul style="list-style-type: none"> • *Deleted from the standard the listing of personal items as it was thought this information should be included in the interpretive material. • *Added a requirement that towels and wash cloths be in good repair. • *Changed the requirement to use warm, soapy water to clean toilets and adapter seats, to use appropriate cleaning materials. • *Added a requirement that privacy, dignity, and confidentiality be maintained during toileting and diapering of older residents.
380	480	Sleeping areas	<ul style="list-style-type: none"> • *Combined standards by adding the word clean to the standard requiring separate bedding. • *Changed standard regarding mattresses to be consistent with Fire Code. • *Revised ceiling height requirements.
390	500	Resident's privacy	<ul style="list-style-type: none"> • *Prohibits the use of video and audio monitoring of children except in

			<p>common areas or hallways or with the permission of the regulatory authority and, where appropriate, the Office of Human Rights. Added secure custody to the exception.</p> <ul style="list-style-type: none"> • *Moved another standard regarding privacy to this section.
400	510	Living rooms and indoor recreation space	<ul style="list-style-type: none"> • *Clarified that secure custody does not have to have a living room area. • *Clarified that all facilities need to have indoor recreation space and materials. • *Clarified that facilities with 13 or more residents need to have indoor recreation space separate from the living room.
450	560	Staff quarters	<ul style="list-style-type: none"> • *Deleted the requirement that live-in staff have a separate living room. • *Deleted the requirement that a bed be provided for overnight staff.
490	600	Housekeeping and maintenance	*Deleted the requirement for linens to be clean and in good repair as this is required in another standard.
500	610	Farm and domestic animals	<ul style="list-style-type: none"> • *Combined the standards for quartering animals a reasonable distance from sleeping, eating, food preparation areas, and from water supplies. • *Deleted the requirement for removing manure as this is required in another standard.
510	1090	Campsite	<ul style="list-style-type: none"> • *Moved this section to Special Programs • *All standards that duplicated the VDH's summer camp regulation were deleted as VDH's standards should be applied to these facilities.
530	630	Admission procedures	<ul style="list-style-type: none"> • Adds exclusion criteria and a description of how educational services will be provided to the population served to the admission criteria requirements to better determine that the facility is serving a population they can manage. • Adds a requirement that each facility shall provide documentation showing proof of contractual agreements or staff expertise to provide educational services, counseling services, psychological services, medical services or any other services needed to serve the resident. This requirement better ensures that staff are qualified to work with the residents. • *Deleted the requirement that admission criteria be available to prospective residents, guardians, and placing agencies.

540	640	Maintenance of resident's records	<ul style="list-style-type: none"> • *Added requirement for policies and procedures for management and protection of records, both written and automated records. • *Added that a separate health record may be kept for residents. (HIPAA) • *Changed requirement to consolidate a resident's record to allowing the case and health record to be kept separate.
550	650	Interstate compact on the placement of children	<ul style="list-style-type: none"> • *Added a requirement that documentation that the provider has sent serious incident reports to the administrator of the Virginia Interstate Compact on the Placement of Children and shall be kept in the resident's record. • *Added a requirement that within 5 days, documentation of the notification to Interstate that a resident has been transferred to another facility sponsored by the same agency must be in the record. • *Clarified that the administrator of the Virginia Interstate Compact be notified in writing within 10 days that the resident has been discharged. • *Added that the provider shall not discharge or send out-of-state youth in the custody of out-of-state social services agencies and courts to reside with a parent, relative, or other individual who lives in Virginia without the approval of the administrator of the Virginia Interstate Compact on the Placement of Children. <p>All additions are current requirements of the Interstate Compact.</p>
570	670	Emergency and self-admission	<ul style="list-style-type: none"> • Deletes item 3, as this requirement is a repeat of the first requirement. • Adds a requirement to justify why a child was admitted on an emergency basis to ensure that admissions are assessed appropriately. • Adds a requirement for documentation that an emergency admission meets the facility's admission criteria to ensure that the facility is only accepting residents they can manage.
580	680	Application for admission	<ul style="list-style-type: none"> • *Changed the admissions requirement to require that all admissions be based on an application, except for court ordered placements and transfers between facilities operated by the same

			<p>sponsor.</p> <ul style="list-style-type: none"> • *Added a requirement that facilities accepting emergency or diagnostic admissions develop an admission application to be completed at the time of placement or prior to placement. • Adds to the requirement that facilities gather health information during the admission process that immunization requirements also be obtained to better ensure that health needs are met for each resident. • Adds requirement to compile information on behavior support needs of the resident to ensure that the applicant is suitable for the program. • Adds a requirement that each facility develop and implement policies and procedures to assess each application for admission to ensure that each resident is suitable for the program.
590	NA	Preplacement activities documentation	*The requirements regarding preplacement visits were deleted as preplacement visits were often conducted at the time of placement.
600	690	Written placement agreement	<ul style="list-style-type: none"> • *Clarified that the placement agreement be signed by a facility representative and corrected the Code cite. • Added a requirement that the educational plan for the resident and the responsibilities of all parties regarding the educational plan be included in the placement agreement. This addition is added to insure that educational planning begins with the application and to insure that the resident begins school in a timely manner. • Deleted requirement addressing absences of the resident.
610	700	Face sheet	<ul style="list-style-type: none"> • *Allows for a unique identifier instead of a social security number. • *Clarified that information on the face sheet is to be updated when changes occur. • *Added a requirement that placement changes among facilities with the same sponsor be documented on the face sheet for easier location of the child.
620	710	Initial objectives and strategies	*Clarified that the initial strategies and objectives are to be measurable.
630	720	Service plan	<ul style="list-style-type: none"> • *Combined the service plan and quarterly report sections. • *Added that the service plan is be written in measurable terms.

			<ul style="list-style-type: none"> • *Clarified that the discharge plan was a projected plan with an estimated length of stay. • *Timeframes for reviewing the service plan were clarified. • *Added a requirement that the provider develop policies and procedures for a system to document progress of the resident towards obtaining goals and objectives of the service plan which shall include the format; the frequency; and the person responsible. • *Timeframes for writing the quarterly progress report were clarified. • *Clarified that each service plan and revision and each quarterly progress report be signed and dated. • *The requirement that requires participation in the service plan reviews and in the development of the quarterly progress report was clarified to require documentation in the resident's record of the participation. • *Distribution of the service plan and quarterly progress reports is required, if allowed by federal regulations.
640	730	Resident transfer between residential facilities located in VA and operated by the same sponsor	<ul style="list-style-type: none"> • *The requirement to document a written admission decision was deleted. Changes made to notifications. • *A requirement was added that the justification of the transfer be documented in the record. • *A requirement was added that the sending agency document on the face sheet the name of the facility the resident was transferred to.
650	740	Discharge	*The requirement to make available or to provide information to the legal guardian or legally authorized representative was revised to require that the information be provided, if appropriate.
670	760	Social services	<ul style="list-style-type: none"> • *"Social services" was changed to "case management services" for clarity. • *The qualifications section to provide case management services was deleted here and added to a new section called case manager in the personnel section.
690	780	Structured program of care	<ul style="list-style-type: none"> • *The activity log was renamed communication log. • Adds a requirement that the daily routine complies with any facility or locally imposed curfews.

700	790	Health care procedures	<ul style="list-style-type: none"> • *A new requirement was added for a policy and procedure to assure that information required in 790.B (emergency information) was promptly available. • Clarifications were made to the emergency information section to require information about all allergies including medication allergies, information about substance abuse and use, and past and present medical problems.
710	800	Medical examination and treatment	<ul style="list-style-type: none"> • *Clarified that record means health record. • *Added a requirement that at the time of placement, except for secure detention and emergency placements, each resident have a screening assessment as evidenced by the completion of a form containing the elements of a current tuberculosis risk assessment screening form published by the VA Department of Health (VDH). The screening assessment can be no older than 30 days. Secure detention and emergency placements have 5 days to complete the screening assessment. (Recommended by VDH) • *A screening assessment must be completed annually on each resident. (Recommended by VDH) • It was clarified that the annual exam could be performed by a physician or under the direction of a physician. • Clarified that the physical exam report include immunizations administered at the time of the exam. • *The policies and procedures regarding universal precautions must now be approved by a medical professional.
720	810	Medication	<p>To reduce medication errors:</p> <ul style="list-style-type: none"> • A clarification was made that over-the-counter drugs also be prescribed by a person authorized by law to prescribe medication. • "Licensed physician" was changed to "person authorized by law to prescribe medication" when talking about prescribing medication. • Components of the daily medication administration log were specified. • A requirement was added to require documentation of medication refusals and that the prescribing professional be consulted unless the issue was covered in standing

			<p>orders.</p> <ul style="list-style-type: none"> • A requirement was added that the provider develop policies and procedures for documenting medication errors, reviewing medication errors and reactions and making any necessary improvements, the disposal of medication, the storage of controlled substances, and the distribution of medication off campus. The policy must be approved by a health care professional. The provider shall keep documentation of this approval. • *"Other emergency numbers" was added to the requirement to post the poison control number by or on the phone. • The requirement to have an unexpired bottle of Syrup of Ipecac and activated charcoal were deleted at the advice of health professionals.
730	820	Nutrition	*Revised to require menus of actual meals be kept.
740	830	Staff supervision of children	<ul style="list-style-type: none"> • *"Children" was changed to "resident." • Amends the requirements for supervision policies to include contingency plans for resident illnesses, emergencies, off campus activities, and resident preferences. This requirement will better ensure that residents are appropriately supervised in all situations. • *The facility must write policies and procedures based on the needs of the population served, types of services offered, qualifications of staff on duty, and number of residents. • *Ratio of staff to residents during awake hours shall be 1:8 unless the lead agency has approved or required a different ratio. • *A procedure is included for providers to request a different ratio. • *The requirements for specific staff to resident ratios in special programs were deleted as the requirement to write policies and procedures was added. • *DJJ will establish their own ratios. • *The requirement that supervision policies or a summary of the policies be provided, upon request, to the placing agency or legal guardian prior to placement was deleted as it was difficult to regulate.
750	840	Emergency telephone numbers	<ul style="list-style-type: none"> • Requirements that providers must have an emergency number where a

			<p>staff person can be reached 24 hours a day were clarified.</p> <ul style="list-style-type: none"> • When a resident is off campus they are to be given an emergency number. Any adults who are responsible for the resident while he is off campus is also to be given the emergency number.
770	850	Searches	*A requirement to conduct pat downs in accordance with policies and procedures was deleted as all policies and procedures should be followed.
780	860	Management of resident behavior	<ul style="list-style-type: none"> • *Changed this section to Behavior support. • *Required a behavior support plan with 30 days of admission developed with the resident, the resident's legal guardian, placing agency staff, facility staff, and other key players. • *Requires that staff be knowledgeable of behavior support plan before working alone with resident.
790	870	Confinement	<ul style="list-style-type: none"> • *"Confinement" was changed to "timeout" in accordance with the Human Rights Regulation. • A resident placed in timeout shall be checked every 15 minutes instead of every 30 minutes.
800	880	Prohibitions	The name of the Department for Rights of Virginians with Disabilities was changed to the Virginia Office of Protection and Advocacy.
810	890	Chemical or mechanical restraints	*"Chemical restraint" was changed to "pharmacological restraint" to comply with the Human Rights Regulation.
820	900	Physical restraint	<ul style="list-style-type: none"> • *Section was changed to Behavior Interventions. • *Requirements from former behavior management section were moved to this section. Because the goal is for residents to manage their own behavior, behavior support is emphasized. Less focus should be put on behavior management and physical restraint. • *Components of the policies and procedures for behavior intervention and management of resident behavior were specified to include the definition and list of techniques that are used and are available for use in the order of their relative degree of restrictiveness; the staff members who may authorize the use of each technique; and the processes for implementing such policies and procedures. • *The exception for giving copies of the policies regarding behavior

			<p>management and all revisions to those residents with diagnosed mental disabilities resulting in the loss of the cognitive ability to understand the information was deleted.</p> <ul style="list-style-type: none">• *"Referral agency" was changed to "placing agency."• The requirement to develop and implement policies and procedures governing the use of physical restraint was clarified to include the identification of the staff person who will write the report and timeframe; the staff person who will review the report and timeframe; and methods to be followed should physical restraint, less intrusive interventions, or measures permitted by other applicable state regulations prove unsuccessful in calming and moderating the resident's behavior.• A requirement was added that all incidents of physical restraint shall be reviewed and evaluated to plan for continued staff development for performance improvement.• *The word intrusive was changed to less restrictive.• In the documentation of all incidents of physical restraint the components, circumstances and reasons for restraint, were replaced with justification for the restraint. The signature of the person completing the report and the date and a reviewer's signature and date was added to the documentation requirements.• *Training in the provider's behavior management policies was added to the staff development section.• A requirement that providers ensure that restraint may only be implemented, monitored, and discontinued by staff who have been trained in the proper and safe use of restraint, including hands-on techniques if applicable, by an individual experienced in training staff in the management of behavior for the population served replaced the requirement that physical restraint be applied only by staff who have been trained in the facility's physical restraint procedures and techniques. <p>These requirements are to insure that inappropriate and possibly harmful behavior</p>
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			management techniques are not applied to residents.
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840	NA	Timeout	*This section was deleted as the previous section on confinement was changed to timeout to be in agreement with the Human Rights Regulation.
850	920	Education	<ul style="list-style-type: none"> • *A requirement was added that residents be enrolled in an educational program within 5 school business days of admission and documentation of the enrollment be kept in the record. • A requirement was added that documentation regarding contact with the resident's home school be kept in the record.
870	940	Recreation	<ul style="list-style-type: none"> • *A new requirement was added for the provider to develop and implement policies and procedures to ensure the safety of residents participating in recreational activities to include a certified life guard for all swimming activities. • To ensure that overnight trips are properly planned and that appropriate decisions are made, adds requirements that for all overnight recreational trips away from the facility, the provider will document trip planning to include: <ul style="list-style-type: none"> ○ A supervision plan for the entire duration of the activity including awake and sleeping hours; ○ Plan for safekeeping and distribution of medication; ○ Overall emergency, safety, and communication plan for the activity including emergency numbers of facility administration; ○ Staff training and experience requirements for each activity; ○ Resident preparation for each activity; ○ Plan to ensure that all necessary equipment for the activity is in good repair and appropriate for the activity; ○ Trip schedule giving addresses and phone numbers of locations to be visited and how the location was chosen/evaluated; ○ Plan to evaluate residents' physical health throughout the activity and to ensure that the activity is conducted within the boundaries of the resident's capabilities, dignity, and respect for self-determination;

			<ul style="list-style-type: none"> ○ Plan to ensure that if residents are to participate in an swimming activity, a certified lifeguard will supervise the activity; and ○ Plan to ensure that any variation from the trip plans and the reason for the variation are documented. <p>The expectations of trip planning will change depending on the facility size, the population served, the number of residents, and the type of trip.</p> <ul style="list-style-type: none"> ● *A requirement was added that for all out-of-state or out-of-country trips written permission must be received from each resident's legal guardian and kept in the resident's record.
880	950	Community relationships	<ul style="list-style-type: none"> ● Adds a requirement that each facility shall have a community liaison that will be responsible for facilitating cooperative relationships with neighbors, the school system, local law enforcement, local government officials, and the community at large ● Adds a requirement that each facility shall develop and implement policies and procedures for promoting positive relationships with the neighbors that shall be approved by the regulatory authority. ● Adds a requirement that each facility shall show evidence that staff have been trained on good neighbor policies and community relations – added to staff development section 310.
910	980	Work and employment	*The requirement that facilities have and implement policies and procedures to ensure that the work and pay of residents complies with applicable laws governing wages and hours and laws governing labor and employment of children in both work assignments and employment was changed to require the program director to evaluate the appropriateness of the work and the fairness of the pay.
925	1000	Resident Visitation at the Homes of Staff	*A requirement was added to keep the written permission in the resident's record.
950	1030	Emergency reports	<ul style="list-style-type: none"> ● *"Emergency report" was changed to "serious incident report" as this is the more accepted term. ● *It was clarified that the provider is to notify the regulatory authority within 24 hours of any serious illness or injury, any death of a resident, and all other situations as required by the

			regulatory authority. The standard includes the elements of the report that is to be submitted.
960	1040	Suspected child abuse or neglect	*The word incident was changed to suspected abuse or neglect.
965	1050	Grievance procedures	*A requirement was added that all documentation regarding grievances be kept on file at the facility for three years, unless other regulations require a longer retention period.
970	1060	Emergency and evacuation procedures	<ul style="list-style-type: none"> • A requirement was added to develop an emergency preparedness and response plan for all locations with consultation of the local emergency coordinator. • A requirement was added that the provider develop and implement emergency preparedness and response training for all employees, contractors, students, and volunteers within 14 days of begin date or before an individual is alone supervising residents and annually thereafter.
980,990, and 1000			<ul style="list-style-type: none"> • Sections were deleted as requirements were moved to 1060.
NA	1070	Independent living programs	<ul style="list-style-type: none"> • *Independent Living programs must use approved independent living curriculums and materials covering 16 required topics. • *Within 14 days of placement an assessment must be completed on each resident using an approved assessment tool and covering the 16 topics. • *Resident's service plans must reflect the 16 topic areas. • *Staff must be trained within 14 days of hire on the curriculum and materials used by the program. • Requirements added as several programs identified themselves as independent living programs but offered few structured services.
NA	1080	Mother/Baby programs	<ul style="list-style-type: none"> • *A new section was added for mother/baby programs. • *Requirements were added for staff training specific to working with babies and toddlers. • *Requirements were added for documentation of information regarding the baby/toddler. • *Requirements were added to ensure the safety of the infant toddler and to ensure the baby's proper development. <p>The number of mother/baby programs is increasing and the regulation had few standards to address this type of program.</p>

510	1090	Camping/Adventure activities	<ul style="list-style-type: none"> • *A new section was added regarding program activities at campsite programs and for programs who participate in adventure activities as the regulation had few requirements addressing program issues. • *Requirements were added to ensure that appropriate trip planning and safety precautions are taken on wilderness and adventure activities. <p>*As it has been determined that the Department of Health's summer camp regulation will be applied to campsite programs most of the environmental standards were deleted under § 510. The remaining standards were moved to this section to keep all the campsite standards together.</p>
Initial Application	NA	Forms	Added to the certifications that the applicant has received and read information regarding the siting of a children's residential facility.

* Indicates standards revisions that were not part of the emergency regulation