

Title 14 INDEPENDENT AGENCIES

Subtitle 31 OFFICE FOR CHILDREN

Chapter 06 Standards for Residential Child Care Programs

Authority: Human Services Article, §§2-209, 2-212, 9-203, 9-204, 9-221, 9-231, 9-234, and 9-235; Health-Occupations Article, §20-302; Education Article, §§8-301—8-303 and 8-401—8-417; Family Law Article, §§5-506, 5-508, 5-509, and 5-510; Health-General Article, §§2-104, 7-904, 8-404, 10-922, and 10-924; Annotated Code of Maryland

.01 Purpose.

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

.02 Scope.

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

- (1) Alternative living units;
- (2) Emergency shelter care;
- (3) Group homes;
- (4) Mother-infant programs;
- (5) Nonpublic residential educational facilities;
- (6) Programs for medically fragile children;
- (7) Programs for pregnant adolescents;
- (8) Psychiatric respite care;
- (9) Residential crisis services;
- (10) State-operated residential educational facilities;
- (11) Secure care;
- (12) Therapeutic group homes; and
- (13) Wilderness programs.

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

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

- (1) A parent or guardian of the child;
- (2) An individual related to the child by blood or marriage within four degrees of consanguinity or affinity under the civil law rule;
- (3) An individual who exercises temporary care, custody, or control over the child at the request of a parent or guardian of the child and who is not otherwise required to be licensed;
- (4) An individual with whom the child is placed in individual family care or foster care by a licensed child placement agency, a court of competent jurisdiction, or agency as defined by Regulation .03 of this chapter, and who is otherwise required to be licensed;
- (5) A youth camp subject to certification by the Department of Health and Mental Hygiene;
- (6) A facility subject to the certificate of need process under State law;
- (7) A nonpublic residential school that is not approved to serve students with disabilities under COMAR 13A.05.02.12; or
- (8) A facility listed in Article 83C, §2-117, Annotated Code of Maryland, or a residential facility operated by the Department of Juvenile Services.

D. Special Licensing and Monitoring Requirements.

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

- (a) State-operated residential educational facilities;
- (b) Secure care programs;
- (c) Wilderness programs;
- (d) Programs for medically fragile children;
- (e) Programs for children with developmental disabilities;
- (f) Shelter care programs;
- (g) Programs for pregnant adolescents; and
- (h) Mother-infant programs.

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

.03 Definitions.

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

B. Terms Defined.

(1) "Behavior treatment plan" means a proactive plan, based on the functional behavioral assessment, designed to address problem behaviors exhibited by a resident in the residential setting through the use of positive behavioral interventions, strategies, and supports, developed by a human services professional as defined in §B(10) of this regulation, who has training and expertise in conducting a behavior functional assessment.

- (2) "Challenging behavior" means those behaviors exhibited by a child which are harmful, destructive, or socially unacceptable and necessitate being addressed in the child's individual service plan.
- (3) "Chemical restraint" means the use of a drug or medication that is not a standard treatment for a child's condition to control behavior or restrict the child's movement.
- (4) "Children's Cabinet" means those agencies directed by Executive Order:
- (a) To examine Maryland's system of services to children and their families; and
 - (b) To facilitate ongoing improvements to this service delivery system.
- (5) "Critical incident" means:
- (a) The death of a child or staff while on duty;
 - (b) An emergency room visit that is the result of a level 3 injury;
 - (c) An unplanned hospital admission;
 - (d) An unauthorized absence of any duration that constitutes an immediate danger to self or others; or
 - (e) Any programmatic, public health, or physical plant issue that could endanger or require the removal of children for reasons of health or safety.
- (6) "Custodial agency" means the agency having primary legal responsibility, which may result from an order of shelter, commitment, limited guardianship, full guardianship, and voluntary placement, both time limited and child with disabilities voluntaries, for the child in placement.
- (7) Direct Care Staff.
- (a) "Direct care staff" means staff assigned to perform direct responsibilities related to activities of daily living, self-help and socialization skills.
 - (b) "Direct care staff" does not include human services professionals, except when a human services professional is specifically assigned to perform the duties of direct care staff as specified in Regulation .06B(1) of this chapter.
- (8) "Full-time employee" means an individual employed by the licensee for at least 35 hours a week.
- (9) Functional Behavior Assessment.
- (a) "Functional behavior assessment" means the systematic process of gathering information to guide the development of an effective and efficient behavior treatment plan for the problem behavior.
 - (b) "Functional behavior assessment" includes the:
 - (i) Identification of the functions of the problem behavior for the resident;
 - (ii) Description of the problem behavior exhibited in the residential setting; and
 - (iii) Identification of environmental and other factors and settings that contribute to or predict the occurrence, nonoccurrence, and maintenance of the behavior over time.
- (10) "Human services professional" means:
- (a) A social worker licensed under Health Occupations Article, Title 19, Annotated Code of Maryland;

- (b) A psychologist licensed under Health Occupations Article, Title 18, Annotated Code of Maryland;
 - (c) A professional counselor certified under Health Occupations Article, Title 17, Annotated Code of Maryland;
 - (d) A nurse licensed under Health Occupations Article, Title 8, Annotated Code of Maryland;
 - (e) A psychiatrist licensed under Health Occupations Article, Title 14, Annotated Code of Maryland;
 - (f) A school counselor certified under COMAR 13A.12.03.02 or a school psychologist II certified under COMAR 13A.12.03.10;
 - (g) An addictions counselor certified as an alcoholism counselor, drug counselor, or chemical dependency counselor; or
 - (h) For programs serving developmentally disabled children, an individual with a bachelor's degree in a human services field who has a minimum of 1 year of full-time experience working directly with persons with developmental disabilities.
- (11) "Individual service plan" means a written description of:
- (a) A child's needs;
 - (b) Goals to be achieved;
 - (c) Persons and agencies responsible for carrying out the plan;
 - (d) Participants in the development of the plan; and
 - (e) Programmatic elements to achieve identified goals, including:
 - (i) Assessments;
 - (ii) Services;
 - (iii) Supports; and
 - (iv) Education and life skills training, as appropriate.
- (12) "Isolation" means the involuntary restriction of a child from others for a period of time to a designated area from which the child is not physically prevented from leaving, for the purpose of providing the child with an opportunity to gain behavioral control.
- (13) "Mechanical restraint" means any mechanical device that restricts the free movement of an individual.
- (14) "Permanency plan" means a design for services articulated by the placing agency that specifies:
- (a) Where and with whom a child shall live; and
 - (b) The proposed legal relationship between the child and the child's permanent caretaker.
- (15) "Physical restraint" means the use of physical force, without the use of any device or material, to restrict the free movement of all or a portion of a child's body, not including:
- (a) Briefly holding a child in order to calm or comfort the child;
 - (b) Holding the child by the hand or arm to escort the child safely from one area to another;

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

(d) Breaking up a fight.

(16) "Positive behavioral interventions, strategies, and supports" means the application of affirmative program and resident specific actions and assistance to encourage emotional and behavioral success.

(17) "Program administrator" means the individual, regardless of title, who is designated by the licensee's governing body as having the day-to-day responsibility for the overall administration and operation of a program and for assuring the care, treatment, safety, and protection of children.

(18) "Prone restraint" means being held face down.

(19) Protective or Stabilizing Device.

(a) "Protective or stabilizing device" means any device or material attached or adjacent to the resident's body that restricts freedom of movement or normal access to any portion of the resident's body, for the purpose of enhancing functional skills, preventing unintentional harm to self or others, or ensuring safe positioning of an individual.

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

(i) Adaptive equipment prescribed by a health professional, if used for the purpose for which the device is intended by the manufacturer;

(ii) Seat belts; or

(iii) Other safety equipment to secure residents during transportation.

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

(21) "Seclusion" means the confinement of a resident alone in a room from which the resident is physically prevented from leaving.

(22) "Senior program personnel" means the individual designated by the facility to act in a supervisory capacity on each shift.

(23) "Staff" means paid employees of a licensee.

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

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

.04 Governance.

A. Board of Directors.

(1) The corporation shall be governed by a board of directors.

(2) The board of directors is responsible for the operation of the program according to its defined purposes.

(3) The board of directors shall be comprised of at least five individuals with interest in or knowledge of the needs of children and their families.

(4) Of the members of the board of directors:

(a) At least one shall have demonstrated experience in or knowledge of the human services field;

(b) At least one shall have demonstrated knowledge in the field of accounting, business, or financial management; and

(c) At least one shall be a resident of the State.

(5) An individual who has been convicted of, or who has entered a plea of guilty or nolo contendere to, a charge of child abuse or neglect or contributing to the delinquency of a minor may not be or become a member of the board of directors or of an advisory board of the corporation or program.

(6) An employee of the corporation or program, or an immediate family member of an employee of the corporation or program, may not be a member of the corporation or program's board of directors.

(7) A member of the board of directors may not be an immediate family member of the program's program administrator.

(8) An individual who is compensated for providing goods or services to the corporation may not be a member of the board of directors.

(9) Each member of the board of directors shall complete a training course on the duties and responsibilities of board members that is offered by the State, or alternative training approved by the Office prior to service on the board of directors and every 2 years thereafter.

(10) The board of directors shall adopt written bylaws that require the board of directors to be legally responsible for:

(a) Overseeing the management and operation of the program operated by the corporation;

(b) Ensuring that the program operates in compliance with all applicable laws and regulations;

(c) Approving the program's mission statement, long-term goals, policies, procedures, and annual budget;

(d) Defining and prohibiting circumstances that would create a financial or personal conflict of interest for members of the board of directors, corporate officers, employees, agents, assigns, and volunteers;

(e) Ensuring that the program responds to all requests from the licensing agency in a timely manner;

(f) Approving the program's service plan and ensuring that services are provided in accordance with the plan;

(g) Approving the program's or corporation's business plan;

(h) If the organization is a nonprofit corporation under 26 U.S.C. §501(c)(3), reviewing annually whether the corporation is satisfying its charitable mission;

(i) Ensuring that the corporation has liability insurance;

(j) Requiring that all members of the board of directors have training in their responsibilities regarding the governance of the program; and

(k) Establishing committees or member assignments to periodically review as warranted but not less than annually:

(i) Compensation of officers and staff of the corporation and the program;

(ii) Quality of services provided to clients, including all incidents harming or potentially harming clients;

- (iii) Financial problems and concerns relating to the program;
 - (iv) Performance of key staff and the nominations of new members of the board of directors; and
 - (v) Potential conflicts of interest.
- (11) The board of directors shall:
- (a) Approve the corporation's annual budget and audit;
 - (b) Establish policy;
 - (c) Have fiscal oversight;
 - (d) Ensure that the corporation does not discriminate on the basis of:
 - (i) Race;
 - (ii) Color;
 - (iii) National origin;
 - (iv) Religion;
 - (v) Creed;
 - (vi) Age;
 - (vii) Sex;
 - (viii) Sexual orientation;
 - (ix) Marital status;
 - (x) Ancestry; or
 - (xi) Physical or mental disability;
 - (e) Appoint and evaluate the program administrator;
 - (f) Meet at least quarterly each year;
 - (g) Permanently retain minutes of each meeting, which shall be in sufficient detail to demonstrate that the board is fulfilling its responsibilities;
 - (h) Approve changes in:
 - (i) Request for licensure status;
 - (ii) Establishment of a new program;
 - (iii) Ownership of the corporation;
 - (iv) Corporate name or structure;
 - (v) Location of the program; and

(vi) Any other substantive changes in the program; and

(i) Notify the licensing agency within 48 hours of:

(i) The dismissal or resignation of the program administrator; or

(ii) The appointment of a new program administrator; and

(j) In the event of a vacancy in the program administration, ensure that the interim program administrator meets all the qualifications and assumes all the responsibilities of a program administrator.

(12) Representatives of the board of directors or, if the applicant or licensee is an out-of-State corporation, the advisory board, shall meet upon request with authorized staff persons representing the licensing agency.

B. Advisory Board.

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

(2) The advisory board shall:

(a) Meet at least quarterly;

(b) Provide input to the licensee regarding the operation of the program and compliance with these regulations;

(c) Assist the licensee with its relations with the surrounding community;

(d) Meet the requirements of §A(5) and (6) of this regulation; and

(e) Perform such other duties as the licensee shall request.

C. Chief Financial Officer.

(1) The board of directors shall hire a chief financial officer for the corporation.

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

.05 Personnel Administration.

A. Personnel Policies.

(1) The board of directors shall:

(a) Adopt and adhere to written personnel policies; and

(b) Review the policies at least every 2 years.

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

(a) Annual performance evaluation;

(b) Communicable diseases;

(c) Confidentiality of records;

- (d) Description of job responsibilities;
- (e) Drug and alcohol free workplace;
- (f) Employee discipline, suspension, and dismissal;
- (g) Employee supervision;
- (h) Grievance procedures for employees;
- (i) Hiring and recruitment of qualified staff;
- (j) Hours of work;
- (k) Organizational chart;
- (l) Orientation and on-going training requirements;
- (m) Salary and benefits package;
- (n) Vacation and other leave allowances;
- (o) A prohibition against the employment of any person whose physical or emotional health, notwithstanding any accommodations required by law, would impair that person's ability to protect the health, welfare, and safety of the program's residents; and
- (p) A prohibition against employment discrimination based on race, color, national origin, religion, creed, age, sex, sexual orientation, marital status, ancestry, or physical or mental disability.

(3) The licensee shall document that all employees have received a copy of the program's personnel policies.

(4) A licensee may not appoint as an employee, a member of the board of directors, or a volunteer with unsupervised access to children any individual who:

(a) Refuses to submit to:

(i) A criminal background check in accordance with State law, including Family Law Article, §§5-560—5-568, Annotated Code of Maryland; or

(ii) A Child Protective Services clearance;

(b) Has an indicated child abuse or neglect finding; or

(c) Has a conviction for:

(i) Child abuse or neglect;

(ii) Spousal abuse;

(iii) Rape;

(iv) Sexual assault;

(v) Homicide; or

(vi) Any crime against children;

- (d) Has a conviction within 5 years of applying for a job with the program for assault or a drug-related offense; or
- (e) Has conviction within 5 years for a violation of the Courts and Judicial Proceedings Article, §3-838 or 3-8A-30, Annotated Code of Maryland.

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

- (1) A licensing agency;
- (2) Local departments of social services;
- (3) A placing agency; or
- (4) The State Department of Education.

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

- (1) Bans sexual harassment or other discrimination against staff and residents; and
- (2) Requires that staff conduct themselves in a manner appropriate to serve the needs of program residents.

D. The licensee shall:

- (1) Have written job descriptions for all positions;
- (2) Document that all employees meet or exceed the minimum qualifications for their positions;
- (3) Assure that all employees have effective communication skills appropriate to their positions;
- (4) Maintain adequate staff coverage at all times based on the time of day, the size and nature of the program, and layout of the physical plant;
- (5) Ensure that, when the program administrator is unavailable, that the program administrator appoints a qualified staff member to whom on-site authority is delegated;
- (6) Have sufficient staff to carry out the licensee's administrative, business, clerical, dietary, housekeeping, maintenance, secretarial, and supervisory functions; and
- (7) Ensure that requests for a criminal background check in accordance with COMAR 12.15.02 and Child Protective Services clearances have been submitted for each prospective employee before the employee begins work at the program.

E. Personnel Record. The licensee shall:

- (1) Maintain for each staff member a personnel record that contains:
 - (a) An employment application or resume showing qualifications and experience;
 - (b) At least three references documented either by letter or notation of verbal contact indicating:
 - (i) The date the contact was made;
 - (ii) The individual making the contact;
 - (iii) The individual contacted; and

(iv) The reference content;

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

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

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

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

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

(h) A copy of current applicable professional credentials;

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

(j) Annual performance evaluations;

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

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

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

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

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

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

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

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

F. Training of Child Care Workers.

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

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

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

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

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

(a) Emergency preparedness and general safety practices;

- (b) Cardiopulmonary resuscitation leading to certification;
 - (c) Annual first-aid training either through completion of:
 - (i) American Red Cross standard first-aid course which is valid for the period of time recognized by the American Red Cross; or
 - (ii) First-aid training by a certified or otherwise qualified instructor;
 - (d) Child abuse and neglect identification and reporting, including training in accordance with any curriculum provided by the licensing agency regarding specific aspects of child abuse and neglect prevention and reporting in residential programs;
 - (e) Suicide risk assessment and prevention;
 - (f) Approved forms of discipline and behavior management techniques including crisis management and the use of isolation and restraints;
 - (g) Medication management;
 - (h) Infection control and Maryland Occupational Safety and Health Bloodborne Pathogen Standards;
 - (i) Parenting issues, collaboration with families, and supporting children and families in making choices;
 - (j) Psychosocial and emotional needs of the children, family relationships, and the impact of separation;
 - (k) Special needs of the population served;
 - (l) Child development;
 - (m) The role of the child care employee;
 - (n) Food preparation, food service, and nutrition, if the employee is involved in preparing meals for residents; and
 - (o) Communication skills.
- (4) Staff training shall utilize any relevant curriculum approved by the licensing agency.

G. Employee Evaluation. The licensee shall:

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

H. Staffing Plan. The licensee shall:

- (1) Analyze:
 - (a) The number of children the licensee intends to serve;
 - (b) The needs of each of the children to be served; and
 - (c) The needs of the program based on the size and layout of the physical plant;
- (2) Develop and implement a staffing plan that:

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

.06 Employee Duties and Qualifications.

A. Program Administrator.

- (1) The licensee's board of directors shall employ a program administrator who is responsible for:
 - (a) Overall administration of the program;
 - (b) Implementation of all policies;
 - (c) Maintenance of the physical plant; and
 - (d) Fiscal accountability.
- (2) The program administrator shall have at least the following qualifications:
 - (a) A bachelor's degree from an accredited college or university, and at least 4 years experience in the human services field with at least 3 of the years in a supervisory or administrative capacity; or
 - (b) A master's degree from an accredited college or university, and at least 2 years experience in a human services field with at least 1 year of experience in a supervisory or administrative capacity.
- (3) The program administrator shall be certified as required by Health Occupations Article, Title 20, Annotated Code of Maryland.
- (4) If a program administrator leaves or is removed from a position as program administrator by death or for any other unexpected cause, the board of directors shall immediately designate a certified program administrator to serve in that capacity.
- (5) Appointment of a Noncertified Individual.
 - (a) In the event a certified program administrator is not available, the board of directors may appoint a noncertified individual to serve in the capacity of acting program administrator for a period not to exceed 180 days.
 - (b) The Board shall evaluate the credentials of the individual appointed to assure that the person appointed is experienced, trained, and competent.
 - (c) The 180-day period begins on the date that the program administrator leaves or is removed from the position as a program administrator.
 - (d) The Board may extend the 180-day period for a further period of not more than 30 days.

B. Direct Care Staff.

(1) The licensee shall employ direct child care staff to:

- (a) Assist the children in meeting the goals and objectives of their individual service plans;
- (b) Develop acceptable habits and attitudes in the children;
- (c) Guide and supervise the children;
- (d) Manage the children's behavior; and
- (e) Promote the physical and emotional well being of the children.

(2) Direct care staff shall be:

- (a) 21 years old or older and have a high school diploma or its equivalent; or
- (b) 18 years old or older and in possession of at least an associate or bachelor's degree from an accredited school in a human services field.

C. Human Service Professionals. The licensee shall employ human service professionals appropriate to the needs of the child and the nature of the program to:

- (1) Assess the children's problems and needs;
- (2) Consult with and train employees regarding implementation of each individual service plan;
- (3) Develop and review each individual service plan and discharge plan;
- (4) Participate in the admission process;
- (5) Provide counseling services to the children directly or through community resources; and
- (6) Serve as a liaison with the children's parents, schools, juvenile court, and other social and community services.

D. Other Professional Service Providers. The licensee shall:

- (1) Obtain any other professional services, including consultation required for the implementation of individual service plans, that are not available from its employees;
- (2) Ensure that the professionals are qualified, certified, or licensed appropriately for the nature of the service; and
- (3) Inform the professional of the licensee's confidentiality policy.

E. Volunteers or Student Interns. If volunteers or student interns are used, the licensee shall:

- (1) Adhere to a written plan for the participation of volunteers or student interns;
- (2) Ensure that volunteers and student interns who have regular direct contact with the children:
 - (a) Are supervised and evaluated by appropriate staff;
 - (b) Are not used to replace a required staff position;
 - (c) Have references verified by the licensee;
 - (d) Are oriented and trained in:

- (i) The philosophy of the program;
 - (ii) The needs and rights of the children; and
 - (iii) The methods of meeting those needs;
- (e) As appropriate, are aware of or have input into the children's individual service plans;
- (f) Annually are screened for tuberculosis by the Mantoux method or the current Centers for Disease Control and Prevention standard and analysis of results or, for a volunteer or student intern whose screening results were positive, provide an annual medical certification that the individual presents no symptoms of active tuberculosis;
- (g) Are not permitted to have unsupervised access to children until the licensee has submitted requests for a criminal background check and a child protective services check;
- (h) Provide the licensee a copy of applicable professional credentials; and
- (i) For those who drive a motor vehicle to transport children, provide the licensee with:
- (i) A copy of the volunteer or student intern's current driver's license; and
 - (ii) An official copy of the volunteer or student intern's driving record which is updated at least every 2 years.

F. Minimum Staffing Requirements. The licensee shall ensure:

- (1) Sufficient staffing at each site to carry out the licensee's administrative, business, clerical, dietary, housekeeping, maintenance, secretarial, and supervisory functions;
- (2) Adequate staff coverage at all times based on the time of day, the size, and the nature of the program;
- (3) That when the chief administrative officer is unavailable that the chief administrative officer appoints a qualified staff member to whom on-site authority is delegated; and
- (4) That one direct care staff member shall remain awake in each building at all times.

.07 Physical Plant.

A. General Requirements. The licensee shall:

- (1) Comply with federal, State, and local building, fire, and health codes, and all applicable local zoning laws;
- (2) Comply with State and federal laws prohibiting discrimination;
- (3) Use a physical plant that is constructed and equipped in a manner consistent with the needs of the children and the goals of the program;
- (4) Ensure compliance with local fire and health requirements by submitting annually to the licensing agency:
 - (a) Reports of all annual fire and health inspections conducted by the local jurisdiction; or
 - (b) If the local jurisdiction does not conduct annual fire or health inspections annually, written documentation from the appropriate public agencies that inspections are not required;
- (5) Maintain evidence that the physical plant had been tested for and found to be free of hazards from lead paint, asbestos, and radon;
- (6) Protect the physical plant from insect or rodent infestation; and

(7) Install telephone service that is:

- (a) Not solely provided through the use of wireless phone service;
- (b) In all buildings used by the children; and
- (c) Appropriately accessible to staff and children.

B. License. The licensee shall display the originally issued license on site.

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

- (1) Maintain all structures and grounds in good condition, free from health or safety hazards;
- (2) Store trash in noncombustible, covered containers, and remove trash on a regular basis;
- (3) As appropriate to the age and functioning level of residents, prevent the children from accessing potentially unsafe areas; and
- (4) Locate, install, and safely maintain appropriate playground or other recreational equipment.

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

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

E. Sleeping Accommodations.

- (1) The licensee shall ensure that bedrooms occupied by ambulatory children measure at least:
 - (a) 80 square feet of usable floor space in single occupancy bedrooms; or
 - (b) 60 square feet of usable floor space per child in multiple occupancy bedrooms.
- (2) The licensee shall ensure that bedrooms occupied by non-ambulatory children measure at least:
 - (a) 120 square feet of usable floor space in single occupancy bedrooms; or
 - (b) 100 square feet of usable floor space per child with at least 3 feet between beds in multiple occupancy bedrooms.
- (3) A licensee shall:
 - (a) Supply individual beds that are:
 - (i) At least 30 inches wide and adequate in length for the child's height; and

(ii) Solidly constructed and consisting of a clean, comfortable, nontoxic, and fire-retardant mattress capable of being disinfected;

(b) Maintain separate sleeping rooms for boys and girls who are 2 years old or older;

(c) Allow no more than four children to sleep in a bedroom;

(d) Ensure that the mattress of any bed in use is far enough away from the ceiling to allow the occupant to sit up in bed;

(e) Change all bed linens at least once a week and whenever soiled;

(f) Provide mattress protection for children who are 6 years old and younger or who are enuretic;

(g) Disinfect mattresses before use by another child;

(h) Provide the children with a personal bureau or locker for clothing and personal belongings and a designated space for hanging clothing;

(i) Allow the children to have some discretion in the decoration of sleeping areas;

(j) Assure that all living areas are kept orderly and clean; and

(k) Provide a source of natural lighting.

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

(a) Provide a pillow, two sheets, and sufficient covering for comfort; and

(b) Prohibit the use of cots, bunk beds, loft beds, or sleep sofas as beds.

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

(a) Shall provide an age appropriate sized crib for each infant or child in care;

(b) May not allow an infant to sleep in a playpen or on a mat at any time; and

(c) Shall ensure that:

(i) Crib and playpen slats are no more than 2.3 inches apart;

(ii) Top rails of the crib or playpen are least 19 inches above the mattress;

(iii) Locks or latches on the dropside of a crib are safe from accidental release;

(iv) Mattresses used in cribs and playpens fit snugly;

(v) Each infant has sheets, blankets, and other coverings for the infant's exclusive use;

(vi) Wet, soiled or damaged sheets, mattresses, blankets, or other coverings are immediately replaced;

(vii) All sheets and blankets are laundered at least once a week, or, if soiled, are laundered before next use; and

(viii) Cribs and playpens are free of hazards and an excessive number of toys.

F. Bathrooms. The licensee shall:

- (1) Keep bathrooms in good operating order and maintain sanitary conditions;
- (2) For every five children, provide at least:
 - (a) One sink with hot and cold water;
 - (b) One bath or shower with hot and cold water; and
 - (c) One flush toilet;
- (3) Unless the children require assistance, provide toilets and baths or showers that allow for individual privacy;
- (4) Equip tubs and showers with slip-proof surfaces;
- (5) Secure mirrors to the walls at heights appropriate for use by the children; and
- (6) Supply toilet paper, soap, and other items required for personal hygiene.

G. Kitchens and Dining Areas. The licensee shall:

- (1) Have sufficient equipment and space for meal preparation, storage, serving, eating, and clean-up of meals;
- (2) Maintain all equipment in working order;
- (3) Unless the licensee documents that disposable dinnerware is necessary to protect the health or safety of the children, refrain from using disposable dinnerware on a regular basis;
- (4) Regularly inspect the food service preparation area for cleanliness and proper temperature control; and
- (5) Ensure that all dishes, cups, and glasses used by the children are:
 - (a) Free from chips, cracks, or other defects; and
 - (b) Properly cleaned between each meal;
- (6) Ensure that children's access to the kitchen area and its equipment and tools is supervised appropriately; and
- (7) Ensure that an unlocked refrigerator stocked with appropriate between-meals items is maintained in the kitchen area and is accessible to program residents.

H. Counseling and Administrative Space. The licensee shall maintain a designated space for private discussions and counseling sessions and space separate from the children's living areas for administration, records, secretarial work, and bookkeeping.

I. Furnishings. The licensee shall supply appropriate, comfortable furniture in good repair and in sufficient amount for all living areas.

J. Doors and Windows. The licensee shall supply:

- (1) Doors that can be opened from both sides for all closets, bedrooms, and bathrooms;
- (2) On all exterior windows that can be opened and doors that may left open, screens that are in good repair and removable in emergencies;
- (3) Window coverings; and

(4) For each door or window in high-risk areas where the children are active, such as recreation rooms and stairwells, shatter-resistant material or safety glass.

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

- (1) Electrical equipment, wiring, switches, sockets, and outlets which are maintained in compliance with local and State building codes;
- (2) Sufficient illumination in rooms, corridors, and stairwells to permit safe usage; and
- (3) Lighting of exterior areas during the night.

L. Heat. The licensee shall:

- (1) Install and insulate heating elements, including hot water pipes, in a manner that protects the safety of the children;
- (2) Maintain a temperature of at least 68°F in the living areas and sleeping quarters of the physical plant; and
- (3) Except in an emergency that is documented in the licensee's records, refrain from the use of kerosene or open coil heaters.

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

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

N. Water. The licensee shall:

- (1) Provide an adequate supply of potable hot and cold running water;
- (2) Equip the physical plant with sanitary drinking fountains or supply individual drinking cups;
- (3) Ensure that hot water accessible to the children is regulated to a temperature of 110°F or lower; and
- (4) If water from any source other than a public water supply is used, annually obtain a water test conducted by the appropriate State or local authority in accordance with State or local law, and keep on file the most recent test report.

.08 Emergency Planning, General Safety, and Transportation.

A. Emergency Planning. The licensee shall:

- (1) Establish a written plan of action describing how the licensee will respond in the event of natural or man-made emergency conditions which:
 - (a) Is approved by the licensing agency; and
 - (b) Includes detailed plans for fire prevention and emergency evacuation of the physical plant;
- (2) Post adjacent to all telephones a list of emergency telephone numbers for:
 - (a) Ambulance;

- (b) Fire;
 - (c) Police;
 - (d) Physician;
 - (e) Poison control; and
 - (f) The licensee's designee for emergencies;
- (3) Train employees and the children in the use of the fire prevention and emergency evacuation plans;
 - (4) Post copies of the evacuation procedure in conspicuous places on each floor of the physical plant;
 - (5) Hold emergency drills:
 - (a) At least monthly;
 - (b) On each shift, at least quarterly;
 - (c) At unexpected times and under varying conditions, documented for 3 years in an ongoing written record of the drills; and
 - (d) For different types of emergencies;
 - (6) Take special care to help children with disabilities understand the nature of the drills;
 - (7) Make special provisions for the evacuation of disabled individuals;
 - (8) Keep exits free of obstruction or impediments to immediate use;
 - (9) Ensure that windows used as a means of emergency exit are large enough to accommodate evacuation; and
 - (10) Ensure that each floor of the physical plant has more than one exit leading to the outside.

B. General Safety. The licensee shall:

- (1) Maintain a written active safety plan;
- (2) Document accidents;
- (3) Maintain first-aid kits appropriate in size and content to the nature of the program;
- (4) Prohibit firearms and chemical weapons on the grounds of or within the physical plant;
- (5) Maintain poisonous, toxic, or flammable materials in accordance with appropriate health code standards;
- (6) Except under the supervision of staff for use during celebrations, prohibit the use of candles;
- (7) Maintain in safe and good repair power-driven equipment;
- (8) Ensure that power-driven equipment is used by children only under the direct supervision of an employee and in accordance with State law; and
- (9) Ensure that, if animals are kept on the grounds or in the facility:

- (a) The animals are, consistent with the local ordinance or State law:
 - (i) Licensed or registered;
 - (ii) Vaccinated; and
 - (iii) Leashed when outdoors;
- (b) Children are, when age appropriate, educated regarding the care and grooming of the animal;
- (c) Children allergic to the animal are not placed with the licensee;
- (d) A responsible adult is always present when an animal is near an infant; and
- (e) An animal suspected of becoming dangerous is removed from the grounds and facility.

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

- (1) Sturdy;
- (2) Of safe construction;
- (3) Nontoxic;
- (4) If used by children younger than 3 years old, large enough so they cannot be swallowed by a child;
- (5) Clean; and
- (6) In compliance with the standards of the Consumer Product Safety Commission.

D. Transportation. A licensee shall:

- (1) Supply transportation necessary to implement the children's individual service plans, including:
 - (a) The provision of any necessary specialized transportation to accommodate a child who uses medical equipment; and
 - (b) The capacity to transport children in case of an emergency;
- (2) Enhance the safety of children during transportation by ensuring:
 - (a) The development and enforcement of appropriate written safety rules for transporting children;
 - (b) Proper registration and maintenance in a safe condition and in conformity with all applicable laws any motor vehicle used for the transportation of children;
 - (c) Retention of maintenance and repair records on all licensee-owned or leased motor vehicles used for the transportation of the children;
 - (d) The availability of a first-aid kit in all vehicles used to transport children; and
 - (e) Compliance with federal and State laws on child restraint;
- (3) Ensure that an individual who operates a licensee-owned or leased motor vehicle to transport the children is properly licensed to operate that class of vehicle;

- (4) Ensure that the number of individuals in a motor vehicle used to transport the children does not exceed the vehicle's industry-rated capacity;
- (5) Assure that any motor vehicle, whether owned by the licensee or a licensee's employee, which is used to transport children is properly insured for that purpose;
- (6) Meet any special medical needs that a child may have during transportation, including:
 - (a) Advising the motor vehicle's operator if a child's health needs may cause difficulties during transportation, such as seizures, tendency towards motion sickness, or a disability; and
 - (b) For non-ambulatory children in all motor vehicles except automobiles:
 - (i) Using a ramp device or a hydraulic lift, if a ramp device is also available in case of emergency, to permit entry and exit of the children; and
 - (ii) Securing wheelchairs to the floor and arranging them with adequate aisle space and access to the exit door; and
- (7) Curtail the use of 15-passenger vans for the transportation of children as follows:
 - (a) Licensee may not acquire or otherwise put into service a 15-passenger van for the transportation of children; and
 - (b) After January 1, 2006, a licensee may not transport children for any purpose in a 15-passenger van.

E. Swimming Pools, Hot Tubs, and Spas.

- (1) If an in-ground swimming pool is located on the grounds of a licensee:
 - (a) The pool shall be maintained in a safe and sanitary condition;
 - (b) If a child younger than 8 years old is placed with the licensee, the pool area shall be completely enclosed by a fence that is:
 - (i) At least 4 feet high; and
 - (ii) Constructed of wood, concrete, brick, or chain metal; and
 - (c) When the pool is not in use:
 - (i) The pool area shall be protected from access by a locked gate; and
 - (ii) The pool shall be completely covered in a manner to prevent access by a child.
- (2) The licensee shall ensure that an above-ground swimming pool located on the licensee's grounds:
 - (a) Is maintained in a safe and sanitary condition;
 - (b) Is 4 feet above ground at all points; and
 - (c) When not in use, has:
 - (i) A secured cover which prevents access by children, or retractable or removable ladders locked or stored away from the pool;
 - (ii) Locked doors and gates that access the pool; and
 - (iii) No climbable objects on the pool's exterior.

- (3) The licensee shall allow children to swim:
 - (a) Only in approved areas; and
 - (b) Under the supervision of sufficient individuals who:
 - (i) Are trained in first aid, water safety, and cardiopulmonary resuscitation; and
 - (ii) Have current senior lifesaving certificates from the American Red Cross or its equivalent.
- (4) Hot tubs and spas are prohibited on the grounds of a licensee's facility.

.09 General Program Requirements.

A. Community Integration. The licensee shall:

- (1) Develop and institute a plan to integrate the program into the life of the community, ensuring that children have opportunities to participate in community activities to a degree consistent with their needs and limitations;
- (2) Ensure that community residents have reasonable access to the program administrator to address concerns about the program staff and residents;
- (3) When possible, identify a resident of the community as an advisor to the board of directors or program administrator; and
- (4) Develop and implement a mechanism for the resolution of complaints from the community.

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

- (1) Before or upon placement, give the child's parent and, as appropriate, the child, a written description of the program which includes:
 - (a) The mission of the program and its admission and discharge policy;
 - (b) Normal daily routines;
 - (c) Treatment strategies and disciplinary practices;
 - (d) Visiting hours and other procedures related to communication with the child;
 - (e) A procedure through which the child or parent may register grievances regarding the child's care;
 - (f) The program's policies with respect to accessing health care and the exercise of religion; and
 - (g) The name and telephone number of a staff member who may be contacted on an ongoing basis;
- (2) Have and follow a written policy regarding communication which includes visitation, correspondence, reports, and telephone contact between the child and others;
- (3) When family participation in the client's activities is consistent with the child's individual service plan, consult with the placing agency to encourage family participation in the program;
- (4) Consistent with the child's individual service plan, maintain conditions of reasonable privacy for the child's visits and telephone contacts;
- (5) Have flexible visiting hours for visitors who are unable to visit at the regular times;

(6) Unless inconsistent with the child's individual service plan, permit the child to receive and send mail;

(7) Have and follow written procedures for overnight visits away from the program which address:

(a) Documentation of permission from the placing agency, parent, or guardian;

(b) Determination of the duration of the visit; and

(c) Documentation of the:

(i) Name and address of the individual responsible for the child while absent from the program;

(ii) Child's location while absent from the program; and

(iii) Time of the child's departure from and return to the program;

(8) Prohibit unreasonable restrictions on a child's access to the child's attorney; and

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

(a) Inform the child and individual affected by the restriction; and

(b) Include a written statement of the reasons for the restriction in the child's case file.

C. Normal Daily Routines. The licensee shall:

(1) Have a written plan of normal daily routines which shall be made available to the children and employees; and

(2) Unless inappropriate, permit the children to participate in planning normal daily routines.

D. Public Relations and Fund Raising.

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

(a) The child, if appropriate;

(b) The child's parent or legal guardian; and

(c) If required, the juvenile court.

(2) The licensee may not use a child for soliciting donations in any way that would likely be harmful or cause embarrassment to the child or the child's family.

E. Child Grievance Procedure.

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

(a) Is clear, simple, and timely;

(b) Requires documentation of receipt of the procedure in the child's individual case record; and

(c) Documents all grievances and communicates corrective actions to the:

(i) Licensing agency; and

(ii) The child and the child's parents, as appropriate.

(2) The licensee shall provide the child and the child's parents, as appropriate, a description of how to file a grievance, including:

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

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

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

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

(4) The grievance process is subject to approval by the licensing agency.

F. Religious, Cultural, Racial, and Ethnic Heritage. To the extent feasible, the licensee shall:

(1) Protect the child's free expression of religion;

(2) Be sensitive to the child's cultural, racial, and ethnic background; and

(3) Facilitate voluntary participation in activities and events related to the child's background.

.10 Basic Life Needs.

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

B. Food and Nutrition. The licensee shall:

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

(2) Maintain at least a 1-week supply of food;

(3) Serve each child three meals each day, two of which shall be hot, and offer nutritious between-meal snacks, with not more than 14 hours between dinner and breakfast the following day;

(4) Offer approved supplementary or modified diets for religious or health reasons, as appropriate;

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

(6) Serve employees who eat with the children the same food as that served to the children;

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

(8) Design menus that:

(a) Are kept on file for 3 years;

(b) Are approved at least annually by an individual licensed by the State to practice dietetics;

(c) Are planned at least a week in advance;

(d) Specify the actual foods served, including substitutions; and

(e) Include any between-meal snacks provided.

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

(1) Observe a written policy concerning a child's personal funds which addresses:

(a) The child's access to the child's personal funds;

(b) Accrual of interest into the child's account from an interest bearing account;

(c) Accounting for the child's funds on request; and

(d) The limit, if any, placed on the personal funds a child may bring into and hold while in the program;

(2) Make an inventory of the child's personal funds and other belongings upon admission, and update the inventory as needed;

(3) Treat money earned by a child or received by the child as a gift or as an allowance as the child's personal property;

(4) Account for and maintain a child's personal funds separate from program funds;

(5) Transfer a child's personal funds to the child upon discharge from the program;

(6) Except in accordance with a child's individual service plan and the licensee's program, refrain from asking the child to assume expenses for individual care, treatment, or program expenses; and

(7) As appropriate, deduct reasonable sums from a child's allowance as restitution for damage done, if:

(a) A restitution plan is recorded in the child's individual service plan and behavior plan; and

(b) The practice is consistent with the licensee's program and written restitution policy.

D. Clothing. The licensee shall:

(1) Ensure that the children have an adequate supply of clean, comfortable, well-fitting clothes, and shoes for indoor and outdoor wear;

(2) Treat a child's clothing as the child's personal property;

(3) Allow a child to be involved, as appropriate, in the selection, care, and maintenance of the child's clothing;

(4) Use donated clothing only if suitable and in good condition; and

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

E. Other Personal Belongings.

(1) The licensee shall:

(a) Allow a child to possess appropriate personal belongings;

(b) Make reasonable provisions for the protection of a child's personal belongings; and

(c) Transfer to a child the child's personal belongings upon discharge.

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

F. Personal Hygiene. The licensee shall:

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

(2) Provide each child with personal toilet articles, including:

(a) A toothbrush;

(b) A comb;

(c) Clean towels; and

(d) Washcloths.

G. Sleep. The licensee shall:

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

(2) Provide children the opportunity each night for at least 8 hours of uninterrupted sleep;

(3) Ensure that the children have ready access to a staff member in the building throughout the night; and

(4) When a child's condition or individual service plan requires it, provide an awake staff member in the child's sleeping areas.

.11 Children's Rights.

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

B. Each child shall:

(1) Be treated with courtesy and respect;

(2) Be treated with warmth and caring;

(3) Receive positive recognition;

(4) Be spoken to and treated in an age appropriate manner; and

(5) Be protected from mental and physical abuse.

.12 Children's Services.

A. Education.

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

(a) Ensure that each child of mandatory school age who has not earned a high school diploma or certificate of completion under COMAR 13A.03.02.02 is receiving an appropriate elementary or secondary school education;

(b) If the child is a student with disabilities, cooperate with the team constituted under COMAR 13A.05.01 as appropriate to ensure that the child receives special education and related services as provided for in the child's individualized education program; and

(c) Ensure that each child above the mandatory school age who has not received a secondary school diploma or certificate of completion under COMAR 13A.03.02.02 participates in:

(i) A secondary school education program;

(ii) A tutoring program to prepare the child to take the General Educational Development Test under COMAR 13A.03.03; or

(iii) Developmentally appropriate vocational skills training.

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

(a) Provide timely information, including education and immunization records, to facilitate the child's enrollment in school;

(b) Ensure that the child attends the local school whenever feasible and appropriate consistent with Education Article, §4-122(a)(4), Annotated Code of Maryland; and

(c) Participate as appropriate in the child's educational activities.

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

(a) Obtain a certificate of approval in accordance with COMAR 13A.09.10, if the licensee intends to establish a nonpublic elementary or secondary program; or

(b) Establish a tutoring program designed to supplement students' regular education programs or to prepare them for the General Education Development Test.

B. Recreation and Leisure. The licensee shall:

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

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

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

(1) Accessing community resources and services;

(2) Conflict resolution;

(3) Dating, marriage, and family planning;

(4) Decision making;

(5) Money management;

(6) Nutrition;

(7) Personal hygiene and grooming;

(8) Personal relationships;

(9) Personal safety; and

(10) Time management.

D. Work Experience. The licensee:

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

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

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

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

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

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

(4) For a child who legally is not attending school, shall either provide for gainful employment or enroll the child in a training institute geared to the acquisition of suitable employment or necessary life skills.

.13 Health Care.

A. General Health Services. The licensee shall:

(1) Observe a written plan for the provision of preventive, routine, and emergency medical, dental, and mental health care for the children; and

(2) Obtain written authorization from a parent or other authorized individual for emergency and non-emergency medical, dental, or mental health care.

B. Medication Administration Policy.

(1) The licensee shall observe written policies for the management and administration of medications to program residents.

(2) The policy shall comply with all relevant State statutes and regulations.

C. Medication Management.

(1) The licensee shall maintain medications as follows:

(a) The licensee shall store medications in a locked drawer, cabinet, or container intended for medication storage, or, if a refrigerator is required, in a locked container in the refrigerator;

(b) The licensee shall store all controlled substances under a double lock; and

(c) The licensee shall discard outdated or discontinued prescription and over-the-counter medications in a manner that prohibits misuse.

(2) For a newly admitted child, the licensee shall:

(a) Continue any current medications that the child is receiving at the time of admission to the program; and

(b) Within 3 days of admission, consult with the licensee's medical care provider or the child's physician concerning the continuation of a current medication.

(3) For each child in the program who receives medications, the licensee shall:

(a) Periodically obtain from the child's medical care provider a review of the child's medications and documentation of the reasons for continuing, discontinuing, or changing medication; and

(b) Document all medication taken, including the:

(i) Name of the child;

(ii) Name of the medication;

(iii) Frequency and dosage of the medication;

(iv) Date, time, and type of administration of the medication; and

(v) Name of the employee who administered the medication or supervised its self-administration;

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

(d) Coordinate with the pharmacy and the child's parents to provide for the administration of medications in accordance with relevant State laws during the child's home visits.

(4) The licensee shall include in the training provided under Regulation .05F(3)(g) of this regulation to all direct care staff regarding:

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

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

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

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

D. Medical Care. The licensee shall:

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

(2) Arrange for access to prompt treatment of acute illnesses;

(3) Arrange for hospitalization for a child when deemed necessary by the licensee's medical care provider;

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

(5) Have and follow written policies and procedures for the provision of health care services.

E. Dental Care. The licensee shall:

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

(2) Unless a child has been examined and treated as necessary during the 12 months before the child's admission to the program, have each child examined by a dentist within 30 days after admission; and

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

F. Immunization. The licensee shall:

- (1) Within 30 days after admission and subject to the provisions of State law, provide for the immunization of any child who has not been immunized in accordance with the immunization schedules of the American Academy of Pediatrics; and
- (2) Maintain a record of immunizations in the child's individual case record.

G. Physical Examination. The licensee shall secure for each child a physical examination and a copy thereof:

- (1) Within 30 days of admission or earlier if indicated by the child's health status; and
- (2) After the examination conducted under §G(1) of this regulation, according to a schedule established by the child's medical care provider, the American Academy of Pediatrics, or the Early and Periodic Screening, Diagnosis, and Treatment schedule.

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

- (1) Communication of the need for immediate assistance;
- (2) Transportation of the child;
- (3) Notification of the licensing agency, the placing agency, and, unless inconsistent with the child's individual service plan, the child's parent; and
- (4) Supervision of the child and the children remaining at the program.

I. Communicable Diseases. The licensee shall:

- (1) Have and follow a policy for managing communicable diseases, including isolation when necessary;
- (2) Have and follow a policy that requires staff to exercise standard precautions with respect to communicable diseases and infection control; and
- (3) Comply with Maryland Occupational Safety and Health Bloodborne Pathogen Standards and the Centers for Disease Control and Prevention's guidelines for the prevention of tuberculosis.

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

.14 Child Abuse and Neglect.

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

- (1) The definitions of child abuse and neglect;
- (2) The procedures to be followed if the licensee has reason to believe that a child has been subjected to abuse or neglect; and
- (3) The penalties that the program may impose for failure to comply with the policy.

B. Reporting Requirements.

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

(a) The program administrator; or

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

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

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

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

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

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

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

(b) Unless inconsistent with the child's individual service plan, inform the child's parent of the allegation.

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

C. Employee's Signature. The licensee shall ensure that as a condition of employment, all employees read and sign a statement acknowledging receipt of the policy established under §A of this regulation.

D. Administrative Leave. Upon being notified of or making a report alleging that an employee has subjected a child to abuse or neglect, the licensee shall place the employee on administrative leave and remove the employee from access to the children. This regulation does not prohibit a licensee from suspending without pay or discharging an employee alleged to have subjected a child to abuse or neglect.

E. Multidisciplinary Consultation. When the local department of social services asks the program administrator to participate on a multidisciplinary case consultation team to investigate a report of child abuse or neglect and to help formulate a corrective action plan, the program administrator or designee shall participate on the team.

F. Posting Telephone Numbers. The licensee shall post conspicuously the telephone number supplied by the local department of social services for reporting child abuse or neglect.

.15 Behavioral Interventions, Strategies, and Supports.

A. General Policies.

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

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

(b) Identify all approved forms of positive behavioral interventions, strategies, and supports;

(c) Specify the approved procedures for the administration of each form of positive behavioral interventions, strategies, and supports;

- (d) Identify the program personnel authorized to administer each form of positive behavioral interventions, strategies, and supports;
 - (e) Include the procedures for training program personnel in the use and administration of each form of positive behavioral interventions, strategies, and supports; and
 - (f) Periodically review the forms of positive behavioral interventions, strategies, and supports used for effectiveness and safety.
- (2) A licensee may not use the following measures as disciplinary measures:
- (a) Physical and verbal abuse, corporal punishment, ill treatment, and harsh or humiliating actions;
 - (b) Assignment of physically strenuous exercise or work;
 - (c) The withholding of:
 - (i) Food;
 - (ii) Water;
 - (iii) Sleep;
 - (iv) Mail;
 - (v) Family visits; or
 - (vi) Program participation other than recreation or leisure activities;
 - (d) Forced feeding of a child;
 - (e) Chemical restraints, unless in compliance with State law and ordered by a physician;
 - (f) Mechanical restraints, except as permitted by other applicable State regulations or ordered by a court of competent jurisdiction; or
 - (g) Physical restraint, except when failure to do so would result in harm to others or to the child.
- (3) Except as part of an organized self-government procedure that is conducted in accordance with written policy, directly supervised by staff, and approved by the licensing agency, a program may not delegate the positive behavioral interventions, strategies, and supports of a child to another child or group of children.

B. Safe Environment Plan.

- (1) General. The program shall develop a safe environment plan during intake and admission. The safe environment plan shall be reviewed and updated in conjunction with the resident behavioral treatment plan. The program shall partner with the resident, the resident's family where applicable, and the custodial agency to develop a plan to create and maintain a nonviolent and healing environment and to prevent the use of restraint. The safe environment plan shall be easily accessible to program personnel at all times.
- (2) The safe environment plan shall include the following:
 - (a) Physical space that the program shall provide to make the resident feel safe, comforted, and in control of the resident's behavior;
 - (b) The triggers and situations that increase stress or fear and may cause the resident to lose control of his or her behavior;

- (c) The methods for calming or soothing that the resident prefers and has found to be successful;
- (d) The resident's preferences regarding positive, nonphysical interventions, strategies, and supports if the resident's level of agitation increases;
- (e) The medication that the resident may choose to take voluntarily, and that is appropriate clinically and agreed to and prescribed by the resident's treating physician, if the resident's level of agitation increases despite the use of the alternative interventions identified in the safe environment plan;
- (f) Any medical information that can affect the safety of a restrictive intervention, for example history of asthma, cardiac conditions, or other medical conditions;
- (g) Any trauma history that the resident has experienced; and
- (h) Any preferences or contraindications to the debriefing process.

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

- (a) Are fully briefed on each resident's safe environment plan; and
- (b) Honor the resident's requests and preferences contained in the plan, unless clinically contraindicated in a particular situation.

(4) The treatment team shall:

- (a) Review the safe environment plan with the resident, and following any postrestraint debriefing, make any necessary changes identified by the resident, staff, or both as appropriate; and
- (b) Ensure that staff, parent, or legal guardian and custodial agency are informed of any subsequent modifications made to treatment plans.

C. Resident Behavior Interventions.

(1) General. Program personnel shall be encouraged to use an array of positive behavior interventions, strategies, and supports to increase adaptive behaviors or decrease targeted behaviors as specified in the behavior treatment plan.

(2) Program personnel may only use time out or restraint:

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

(i) Attempted; or

(ii) Determined to be inappropriate;

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

(c) Without intent to harm or create undue discomfort; and

(d) Consistent with known medical or psychological limitations and the resident's behavioral intervention plan.

(3) This chapter does not prohibit law enforcement, judicial authorities, or security personnel from exercising their responsibilities, including the physical detainment of a resident or other person alleged to have committed a crime, or posing a security risk in accordance with relevant law, regulation, policy, or procedures.

D. Use of Time Out.

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

(a) If the resident's behavior unreasonably interferes with the program activities;

(b) If the resident's behavior constitutes an emergency, and time out is necessary to protect a resident or other person from imminent, serious, physical harm after other less intrusive interventions have failed or been determined inappropriate;

(c) When time out is requested by the resident; or

(d) When supported by the safety plan.

(2) A setting used for time out shall:

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

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

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

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

(a) An explanation of the behavior that resulted in the removal; and

(b) Explanation and instruction on the behavioral expectations when the resident returns to the milieu.

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

(5) Parents or a legal guardian, the custodial agency, and program personnel may at any time request a meeting to address the use of time out and to:

(a) Conduct a functional behavioral assessment; and

(b) Develop, review, or revise a resident's behavioral intervention plan.

E. General Requirements for the Use of Restraint.

(1) Physical Restraint.

(a) The use of prone floor restraint is prohibited in residential child care facilities.

(b) The use of physical restraint is prohibited in residential child care facilities unless:

(i) There is an emergency situation and physical restraint is necessary to protect a resident or other individuals from imminent, serious, physical harm after other less intrusive, nonphysical interventions have failed or been determined inappropriate; and

(ii) The parents or legal guardian of a resident have been notified before admission that use of physical restraints may be necessary;

(c) Physical restraint may be applied only by program personnel who have successfully completed training in the appropriate use of physical restraint consistent with §H of this regulation.

(d) In applying physical restraint, program personnel may only use reasonable force as is necessary to protect a resident or other person from imminent, serious physical harm.

(e) A physical restraint:

(i) Shall be removed as soon as the resident is calm; and

(ii) May not last longer than 30 minutes.

(f) Trained staff shall constantly monitor the use of restraint for the following:

(i) Proper technique;

(ii) Level of consciousness of the youth being restrained;

(iii) Breathing; and

(iv) Other safety factors.

(g) Senior program personnel shall conduct a face-to-face assessment, as described in §F of this regulation, as soon as practicable but not more than 1 hour after the initiation of the restraint.

(2) Mechanical Restraint.

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

(b) Regulation .04 of this chapter does not prohibit program personnel from using a protective or stabilizing device prescribed by a health care professional.

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

(4) Referral to Treatment Team.

(a) If restraint is used for a resident, the treatment team shall meet within 5 business days of the incident to consider:

(i) The review of the safety plan;

(ii) The need for a functional behavioral assessment;

(iii) Reviewing or developing appropriate behavioral interventions; and

(iv) Revising or implementing a behavioral intervention plan.

(b) If restraint is used for a resident, and the behavior treatment plan includes the use of restraint, the resident's behavior treatment plan shall specify how often the treatment team shall meet to review or revise, as appropriate, the resident's behavior treatment plan.

(c) When a treatment team meets to review or revise a resident's behavior treatment plan, as specified in §C(2) of this regulation, the treatment team shall consider:

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

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

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

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

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

F. Documentation Requirements for the Use of Restraint. Documentation of events surrounding the utilization of restraint in the resident's record, including but not limited to:

- (1) Type of restraint used;
- (2) Rationale for the restraint;
- (3) Expected outcomes;
- (4) The length of time in restraint;
- (5) Description of the specific precipitating factors leading to the restraint, including:
 - (a) Description of observable behavioral, emotional, and physical characteristics of the youth involved;
 - (b) Degree of restriction or loss of privileges;
 - (c) Any event, situation, or condition immediately preceding the behavior that prompted the use of restraint; and
 - (d) The behavior that prompted the use of a restraint;
- (6) Specific location where the restraint occurred, and general activity occurring within the environment before the incident;
- (7) Staffing level, types of program personnel (male, female, nonlicensed, licensed);
- (8) Unit capacity and unit population;
- (9) The names of the program personnel who observed the behavior that prompted the use of restraint;
- (10) The names and signatures of the program personnel implementing, observing, and monitoring the use of restraint;
- (11) A description of the restraint event, including:
 - (a) The resident's behavior and reaction during the restraint;
 - (b) The resident's mental status during and after the restraint; and
 - (c) The name and signature of the administrator informed of the use of restraint;
- (12) The safe environment plan or other less restrictive interventions, de-escalation techniques, or all of these utilized and the resident's response to each;
- (13) Residents response during and after the implementation of the restraint;
- (14) Observable physical condition of the resident, including:
 - (a) Description of any injuries sustained;
 - (b) On-site first aid intervention; and
 - (c) Off-site medical treatment;

(15) Medication, as identified in the resident's safe environment plan, administered before, during, or after the restraint;

(16) Date and time of the restraint; and

(17) Notification:

(a) To the parent or legal guardian immediately following the incident unless otherwise specified by the parent or legal guardian;

(b) To the placement agency within 24 hours of the incident; and

(c) To the licensing agency in writing, information described in Regulation .05 of this chapter, within 24 hours of the incident.

G. Debriefing.

(1) Staff. Within 24 hours of the incident, program personnel involved in the incident and the clinical coordinator, supervisor, or designee shall discuss the management of the incident by addressing the following:

(a) The cause of the incident;

(b) Program personnel response to the incident;

(c) De-escalation techniques or less restrictive interventions attempted, or both, and the resident's response to each;

(d) Timeliness of program personnel intervention;

(e) Program personnel's ability to function as a team and improvements that could be made;

(f) Adequacy of program personnel response and need for additional staff;

(g) Aspects of the incident that should be the focus of discussion for the treatment team; and

(h) Other interventions that could have been used to prevent the restraint.

(2) Resident.

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

(i) The cause of the incident;

(ii) Program personnel response to the incident;

(iii) De-escalation techniques or less restrictive interventions attempted, or both, and the resident's response to each;

(iv) Timeliness of program personnel intervention;

(v) Program personnel's ability to function as a team, and improvements that could be made;

(vi) Adequacy of program personnel response, and need for additional staff;

(vii) Aspects of the incident the treatment team discussion and focus; and

(viii) Other interventions that could have been used to prevent the restraint.

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

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

(ii) Negative consequences may not be imposed upon the youth.

H. Administrative Procedures.

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

(a) A continuum of positive behavioral interventions, strategies, and supports for use by program personnel before time out or restraint;

(b) The prevention of self-injurious behaviors;

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

(d) The use and documentation of time out consistent with Regulation .03 of this chapter; and

(e) The use of restraint consistent with Regulation .04A of this chapter.

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

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

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

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

(d) Annually review policies and procedures, and provide them to program personnel and parents or legal guardians.

(3) Training.

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

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

(i) Assist with training on de-escalation techniques; and

(ii) Ensure proper administration of time out and restraint.

(c) The program personnel shall receive training, approved by the State, in current professionally accepted practices and standards regarding:

(i) Positive behavior interventions strategies and supports;

(ii) Functional behavior assessment and behavior treatment planning;

(iii) Time out; and

(iv) Restraint.

(d) Training shall be required:

- (i) Before a program personnel individual may work with residents independently;
 - (ii) At least yearly.
- (4) Monitoring and Compliance.
- (a) Each residential child care facility shall develop policies and procedures on:
 - (i) Monitoring the use of time out and restraint; and
 - (ii) Receiving and investigating complaints regarding time out and restraint practices.
 - (b) The residential child care facility shall report the use of restraint to:
 - (i) The parent or legal guardian immediately following the incident unless otherwise specified by the parent or legal guardian;
 - (ii) The placement agency within 24 hours of the incident;
 - (iii) The licensing agency in writing, information described in Regulation .05 of this chapter, within 24 hours of the incident; and
 - (iv) Child Protective Services, if the use of restraint was inappropriate.
 - (c) The licensing agency may monitor and request any information regarding any matter related to time out or restraint implemented by a residential child care facility. The licensing agency shall provide written notice of the requested information, and specify the time and the manner in which the residential child care facility shall respond to the request.

.16 Absence Without Leave.

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

B. Child's Return. If the child has not returned to the program within 2 hours, the licensee shall notify:

- (1) The local law enforcement authority;
- (2) The placing agency;
- (3) The licensing agency; and
- (4) Unless inconsistent with the child's individual service plan, the child's parent.

C. Twenty-Four Hour Report. If an absent child does not return to the program within 24 hours, the licensee shall submit a written report to the licensing agency.

D. Notification. When an absent child returns to the program, the licensee shall notify:

- (1) Immediately:
 - (a) The local law enforcement authority; and
 - (b) The child's parent; and
- (2) By the next business day:

- (a) The placing agency; and
- (b) The licensing agency.

.17 Admission, Individual Service Plan, Behavior Plan, and Discharge.

A. General Requirements.

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

- (a) Admission;
- (b) Individual service planning;
- (c) Behavior planning; and
- (d) Discharge.

(2) The licensee shall form a team comprised of at least the following individuals to participate in the admission process, the development of the individual service plan, the behavior plan, and the discharge plan:

- (a) A representative designated by the placing agency;
- (b) Program staff responsible for the care and supervision of the child;
- (c) The child's parent, if consistent with the child's permanency plan; and
- (d) Unless clearly inappropriate, the child.

(3) The team shall:

- (a) Document those present and participating in the admission process and the development of the individual service plan, the behavior plan, and the discharge plan; and
- (b) Indicate in the individual case record the reason, if known, why an invited individual did not attend.

B. Admission.

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

- (a) Statement of nondiscrimination consistent with Title VII of the Civil Rights Act and Article 49B, Annotated Code of Maryland;
- (b) Provision for an evaluation to determine the child's needs and the licensee's ability to meet them; and
- (c) Method for notifying, when appropriate, a child's parent if the child is self-admitted.

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

(3) The licensee may not admit into care more children than the number specified in its license.

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

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

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

(i) The reasons for the placement; and

(ii) Accommodations made in the placement to ensure adequate and appropriate care for the child.

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

(a) A social history or predisposition report, to include any history of abuse or neglect;

(b) A health history that is not older than 6 months;

(c) A mental health screening report that:

(i) Includes screening for the child's risk of suicide; and

(ii) Was completed in less than 72 hours before the child's placement;

(d) An educational history;

(e) Medical insurance documentation;

(f) If required by federal or State law, any psychological, psychiatric, or developmental assessment that is not older than 12 months;

(g) Emergency telephone numbers to contact the child's parent;

(h) A document that specifies a guardian or custodian of the child other than the natural parent;

(i) The child's permanency plan;

(j) Authorizations necessary for providing care, including:

(i) Medical, dental, and mental health authorizations for routine and emergency care;

(ii) Any applicable court order or master's recommendation; and

(iii) Applicable non-court order for shelter care.

(6) For emergency placements, the licensee and the placing agency shall ensure that the licensee receives the documents specified in §§A, B, and C of this regulation within 24 hours of the child's placement.

(7) If it has the discretion to refuse to admit a child referred by the placing agency, the licensee shall process each referral promptly and submit to the placing agency its decision on the referral within 10 days after receipt.

(8) The licensee shall:

(a) Examine each child upon admission;

(b) Document in the child's individual case record any illness, fever, rash, bruise, or injury; and

(c) Take appropriate action as necessary.

C. Individual Service Plan. The licensee shall:

(1) Within 3 days after admission, include in a child's individual case record:

(a) A preliminary assessment of the child's needs; and

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

(2) Within 30 days after admission, develop for each child an individual service plan that identifies:

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

(b) A behavior plan, if appropriate;

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

(d) Implementation dates and strategies;

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

(f) Documentation indicating that the child, child's advocates, guardian, and family, when appropriate, have been involved in, informed of, and agree with the plan;

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

(h) Family relationship;

(i) Health care;

(j) Life skills development;

(k) Personal, emotional, and social development;

(l) Recreation plan;

(m) Vocational training; and

(n) Other areas as appropriate;

(3) Assure that the individual service plan is:

(a) Reviewed and updated at least every 90 days;

(b) Modified as required by the child's needs, interests, and circumstances; and

(c) Provides documentation of progress toward achievement of goals and estimated length of stay.

D. Behavior Plan.

(1) A licensee shall ensure that a behavior plan is developed for each child for whom it is required.

(2) The licensee shall develop each behavior plan in collaboration with a team that may include:

(a) A human services professional;

(b) A Maryland licensed physician; or

(c) A Maryland licensed or certified professional counselor, who shall have training and experience in applied behavior analysis.

(3) The behavior plan shall:

(a) Be based on and include an assessment of each challenging behavior as identified in the individual service plan;

(b) Specify the behavioral objectives for the child;

(c) Include:

(i) A description of the hypothesized function of current behaviors including their frequency and severity;

(ii) Criteria for determining achievement of the objectives established;

(iii) A description of the adaptive skills to be learned by a child that serve as alternatives to behaviors that present a danger to self or serious bodily harm to others;

(iv) A description of the adaptive skills to be learned by a child that serve as functional alternatives to the challenging behavior or behaviors to be decreased;

(v) Identification of the individual or individuals responsible for monitoring the behavior plan;

(vi) The data to be collected to assess progress towards meeting the behavior plan's objectives;

(vii) Documentation of each use of physical restraint, the reason for its use, and the length of time used; and

(viii) For licensees of the Department of Health and Mental Hygiene, documentation of each use of mechanical restraint, the reason for its use, and the length of time used;

(d) Take into account the medical condition of the child; and

(e) Describe the treatment techniques and when the techniques are to be used.

(4) Before implementation, the licensee shall ensure that each behavior plan that includes the use of restraints includes the written informed consent of:

(a) The child, when appropriate;

(b) The child's parent, when appropriate; and

(c) The placing agency's designated contact for the case.

(5) If the program is licensed to serve children with developmental disabilities, each behavior plan that includes the use of restraints shall be approved by the standing committee established under COMAR 14.31.07.08 before the plan's implementation.

E. Behavior Support Services.

(1) A licensee who contracts for behavior support services shall ensure that its contractor:

(a) Meets the requirements of this chapter; and

(b) Is knowledgeable about the licensing agency's service delivery system.

(2) Behavior support services may include:

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

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

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

F. Discharge. The licensee shall:

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

- (a) The name, address, telephone number, and relationship of the individual with whom the child will be residing upon discharge;
- (b) A statement of unmet identified and continuing needs; and
- (c) The placing agency's designated contact for the case;

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

- (a) A final summary of the child's performance in the program;
- (b) A summary of the child's health, dental, and mental health records;
- (c) A summary of services provided to the child; and
- (d) The licensee's recommendations for continuing services; and

(3) Provide as much prior notice as possible to the placing agency and the parent whenever an unplanned discharge occurs.

.18 Reports and Records.

A. General Requirements. The licensee shall:

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

(2) Immediately notify:

- (a) The licensing agency, the contracting agency, and the placing agency of any critical incident; and
- (b) The child's parent, the placing agency, and the licensing agency of the death of a child;

(3) Notify by the next morning the placing agency and, unless inconsistent with the child's individual service plan, the child's parent, if a child is hospitalized;

(4) Within 24 hours after any critical incident, submit a critical incident report to the licensing agency, the contracting agency, and the placing agency;

(5) Within 48 hours after an incident requiring the involvement of law enforcement, fire department, or other emergency services, submit an incident report to the licensing agency and, if a particular child is involved, to the placing agency;

(6) Within 10 days report to the licensing agency in writing:

(a) Any complaint from the community received by the provider; and

(b) The process and actions taken toward resolution; and

(7) Allow authorized representatives of the licensing agency to review and photocopy records and reports in order to assist the licensing agency in determining compliance with these regulations.

B. Individual Case Records. In addition to any other requirement set out in this chapter, the licensee shall maintain for each child an individual case record that includes:

(1) A fact sheet with identifying information about the child and the child's parents;

(2) A recent photograph of the child;

(3) Referral material;

(4) The individual service plan and its reviews;

(5) The behavior plan, if required;

(6) Written reports related to the child;

(7) Evaluations;

(8) Correspondence;

(9) Legal documents;

(10) Health records;

(11) Educational records; and

(12) The discharge summary.

C. Health Records. The licensee shall maintain for each child a health section in the individual case record or a separate health record that includes:

(1) The consent form for medical, dental, or mental health treatment signed by the parent or other individual authorized to give consent;

(2) Medical Assistance or other medical insurance information;

(3) The child's medical, dental, and mental health history; and

(4) Written documentation of all:

(a) Health complaints;

- (b) Illnesses;
- (c) Injuries;
- (d) Immunizations;
- (e) Evaluations;
- (f) Medication;
- (g) Hospitalizations of the child; and
- (h) Health care provided during the time while the child is in the care of the licensee, including dental and mental health care.

D. Use of restraints. The licensee shall document in the child's individual record each use of a restraint, including:

- (1) The type of restraint;
- (2) The reason for its use;
- (3) The duration of use;
- (4) The identity of the individual or individuals applying the restraint; and
- (5) Less restrictive behavioral management techniques already attempted.

E. Confidentiality of Records. The licensee shall:

(1) Have and follow written procedures for the maintenance and security of individual case records and health records which include:

- (a) The identity of the staff persons responsible for the custody and maintenance of the records;
- (b) A prohibition on the release of records except in accordance with law or contractual obligation; and
- (c) A notice that employees may not disclose or knowingly permit the disclosure of any information concerning the child or the child's family to any unauthorized person;

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

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

F. Record Maintenance. The licensee shall:

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

- (a) Name;
- (b) Sex;
- (c) Date of birth;
- (d) Placing agency; and

- (e) Dates of admission and anticipated discharge;
- (2) Retain for the later of 5 years after discharge of a child, or 3 years after the child becomes 18 years old, individual case records;
- (3) Retain financial records for at least 6 years from the date of their creation or after any contract with the State terminates;
- (4) Retain for at least 3 years:
 - (a) Copies of menus and meal counts;
 - (b) Records of emergency drills held; and
 - (c) An isolation log; and
- (5) Protect all documents against fire damage, theft, and unauthorized disclosure.

.19 Program Planning, Evaluation, and Quality Improvement.

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

- (1) A clearly stated written mission for the program approved by the board of directors;
- (2) A set of measurable goals and objectives which is based upon the mission, program, and population served;
- (3) A periodic review of achievement of goals and objectives; and
- (4) A correction plan reviewed by the board of directors for unmet goals.

B. Program Quality Improvement. The licensee shall:

- (1) Develop and implement an ongoing quality improvement plan; and
- (2) Review and evaluate the quality and appropriateness of the services provided.

Administrative History

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