

Title 14 INDEPENDENT AGENCIES

Subtitle 31 OFFICE FOR CHILDREN

Chapter 07 Specialized Licensing Standards

Authority: Article 41, §§6-101 and 6-104; Article 83C, §§2-102, 2-104, 2-113, 2-120, and 2-123—2-125; Education Article, §§8-301—8-303; Family Law Article, §§5-506, 5-508, 5-509, 5-509.1, and 5-510; Health-General Article, §§2-104, 7-904, 8-404, 10-922, and 10-924; Annotated Code of Maryland

.01 Purpose.

The purpose of this chapter is to establish specialized licensing and monitoring standards that supplement or alter the core licensing standards of COMAR 14.31.05 and 14.31.06 for particular types of residential child care programs.

.02 Scope.

This chapter contains specialized licensing standards for the following types of residential child care programs:

- 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;
- H. Mother-infant programs;
- I. Therapeutic group homes;

J. Community mental health programs providing residential crisis services; and

K. Community mental health programs providing respite care services.

14.31.07.03

.03 Definitions.

A. In this chapter, the definitions in COMAR 14.31.05 and 14.31.06 apply, and the following terms have the meanings indicated.

B. Terms Defined.

(1) "Developmental Disabilities Administration" means the Developmental Disabilities Administration of the Department of Health and Mental Hygiene.

(2) "Infant" means a child younger than 24 months old.

(3) "Locked door isolation" means the involuntary restriction of a child from others for a period of time to a designated area from which the child may not leave, for the purpose of providing the child with an opportunity to gain behavioral control.

14.31.07.04

.04 State-Operated Residential Educational Facilities.

A. Scope. This regulation applies only to the Maryland School for the Deaf and the Maryland School for the Blind.

B. Applicable Core Regulations. The standards for residential child care programs established in COMAR 14.31.05 apply to residential educational facilities only to the extent that they are specifically referenced in §§D—F of this regulation.

C. Licensing and Monitoring.

(1) Licensing Agency.

(a) The Department of Human Resources is the licensing agency for residential education facilities.

(b) A residential educational facility may request a variance or waiver of the provisions listed in this subsection by filing a request for variance or waiver under COMAR 14.31.05.13.

(c) Residential educational facilities shall be monitored and evaluated as provided in COMAR 14.31.05.07 —.09 only with respect to the standards set out in §§D—F of this regulation.

(2) The governance and operation of residential educational facilities shall otherwise be regulated under the provisions of Education Article, §8-301 et seq., Annotated Code of Maryland.

D. Licensing Standards. Employees of residential education facilities who provide supervision for children when the children are not attending school shall provide the licensee with documentation of:

(1) 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 medication certification that the staff member presents no symptoms of active tuberculosis;

(2) A copy of current cardiopulmonary resuscitation certification;

(3) 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 which would endanger the health and well-being of children;

(4) Request for criminal background check and copy of outcome upon receipt; and

(5) Protective services clearance from the appropriate department of social services.

E. Licensee Documentation. The licensee shall provide the licensing agency annually with documentation of:

(1) On-site fire inspections by the local fire department;

(2) On-site health inspections by the local health department; and

(3) Weekly menus approved by an individual licensed by the State to practice dietetics.

F. Child Abuse and Neglect Reporting. The licensee shall provide the licensing agency with:

(1) A written procedure for reporting child abuse or neglect;

(2) A verbal report of any suspected child abuse or neglect within 1 hour of the suspected abuse or neglect;

(3) A written report within 24 hours of the suspected abuse or neglect; and

(4) A written incident report within 24 hours of any incident which threatens the life, health, or general well being of a child in care.

14.31.07.05

.05 Secure Care Programs.

A. Licensing Requirements. In addition to the requirements set out in this regulation, a licensee that provides secure care shall also meet the requirements of COMAR 14.31.05 and 14.31.06.

B. Security. In order to have a license as a secure care program, a licensee shall:

- (1) Be licensed by the Department of Juvenile Services;
- (2) Identify in its application for licensure the specific security measures to be used by the program and demonstrate that the measures are necessary in order to provide care for the children to be served by the applicant;
- (3) Structure the physical plant so that it has:
 - (a) A 24-hour control center for monitoring and coordinating its security, safety, and communication systems;
 - (b) A perimeter that can retain the children within it and prevent unauthorized access into it; and
 - (c) Doors that open out from any room used by children;
- (4) Assign and deploy staff so that the children are visually supervised and staff are able to respond immediately to emergencies;
- (5) Open mail addressed to a child in front of the child to check for contraband;
- (6) Inspect:
 - (a) On a weekly basis:
 - (i) The operation of all security devices; and
 - (ii) For the presence of contraband; and
 - (b) On a daily basis, all areas occupied by the children; and
- (7) Document all inspections and immediately correct all problems or defects found during the inspections.

C. Restraints. The licensee:

- (1) May use restraints on children only in conformity with this regulation;
- (2) Shall have and follow a written policy on the use of restraints that:

- (a) Identifies the type of restraints used by the licensee;
- (b) Specifies the criteria for the use of each type of restraint and that the staff authorizes approval and use of each type; and
- (c) Establishes procedures for the:
 - (i) Monitoring and supervision of children in restraints;
 - (ii) Immediate review of the use of restraints; and
 - (iii) Documentation of each use of restraints;
- (3) Shall prohibit the use of restraint in any manner that causes the child physical pain or undue anxiety; and
- (4) Shall train staff upon employment and annually after that in the proper use of restraint.

D. Locked-Door Isolation.

- (1) A licensee may place a child in locked-door isolation only if:
 - (a) Locked-door isolation is clearly necessary to prevent imminent physical harm to the child or other individuals; and
 - (b) Less restrictive methods of behavior control have failed or cannot reasonably be implemented.
- (2) A licensee shall have and follow written procedures for the use of locked-door isolation that identify the staff authorized to approve the use of locked-door isolation.
- (3) A licensee shall ensure that a child placed in locked-door isolation:
 - (a) Does not possess belts, matches, weapons, or other objects or materials that might be used to inflict self-injury;
 - (b) Does not present imminent danger to self or others;
 - (c) Is offered 1 hour of large muscle activity every 24 hours that takes place out-of-room and, weather permitting, out-of-doors;
 - (d) Has all reasonable personal physical needs met;
 - (e) Receives all scheduled meals and snacks on time; and
 - (f) Is granted prompt access to bathroom facilities.

- (4) Staff shall monitor a child in locked-door isolation by:
- (a) Maintaining auditory contact with the child at all times;
 - (b) Making visual contact with the child every 10 minutes; and
 - (c) Recording each contact with the child in a permanently bound logbook.
- (5) The licensee shall ensure that a room used for locked-door isolation is designed and constructed to safeguard the health, safety, and well-being of children.
- (6) The room used for locked door isolation shall have:
- (a) An area of at least 60 square feet;
 - (b) A tamper-proof ceiling light fixture with a minimum of a 75-watt bulb;
 - (c) A door with a window that is impact-resistant, shatterproof, and mounted to allow inspection of the entire room;
 - (d) Adequate ventilation; and
 - (e) Equipment and fixtures that are designed and maintained in a manner to prevent their use in an attempted suicide.
- (7) In order for a child to be held in locked-door isolation for longer than 30 minutes during a 12-hour period, the program administrator shall:
- (a) Approve the locked-door isolation every 2 hours;
 - (b) Obtain for the child every 2 hours an examination by a physician or nurse;
 - (c) Notify the placing agency and the child's parent if the locked-door isolation continues for more than 8 hours; and
 - (d) Remove a child from locked-door isolation after 72 hours.

14.31.07.06

.06 Wilderness Programs.

A. Additional Requirements.

- (1) In addition to the requirements set forth in COMAR 14.31.05 and 14.31.06, a licensee shall ensure that a wilderness program also meets the requirements of this regulation.

(2) With the exception of §§B and C of this regulation, the requirements of COMAR 14.31.06.07 are not applicable to wilderness programs.

B. Living Environment. The living environment, including all sleeping and food preparation, and personal hygiene facilities, of a wilderness program shall:

- (1) Be well drained and free from depressions in which water may stagnate;
- (2) Be free from noxious plants and uncontrolled weeds or brush; and
- (3) Have an approved sanitary landfill or similar disposal facility for solid wastes that is not subject to inundation by flooding.

C. The licensee shall ensure that every wilderness site has available an adequate supply of potable water.

D. Food Preparation and Storage.

(1) If food is prepared at a central dining building, the licensee shall meet the requirements set out in COMAR 14.31.06.07 for kitchens.

(2) If food is prepared away from a central dining building, the licensee shall:

- (a) Store food in a manner that deters spoilage and contamination;
- (b) Ensure that perishable food stored in ice chests is:
 - (i) Maintained at a refrigerated temperature; and
 - (ii) Is not stored in an ice chest for more than 24 hours;
- (c) Ensure that all surfaces that come in contact with food are clean and, when preparing meat products and other foods, not sources of cross contamination; and
- (d) Clean thoroughly and store all dishes, cooking, and eating utensils in a manner to avoid contamination.

E. Toilet and Personal Hygiene Facilities.

(1) If a water supply is not available, the licensee shall provide sanitary type privies, or portable toilets, that meet local or State health department standards.

(2) The licensee shall maintain all toilet and personal hygiene areas in a sanitary manner to eliminate health or pollution hazards.

(3) The licensee shall locate privies at least 150 feet from a stream, lake, or well and at least 75 feet from a sleeping area.

(4) At sites not equipped with a permanent toilet facility, the licensee shall provide at least one privy or portable toilet for every 15 people.

F. Heating. The licensee shall install and ventilate heating stoves that use combustible fuel in a manner that prevents fire hazards and dangerous concentrations of gases.

G. Sleeping Areas. The licensee shall use:

(1) Bedding that is adequate for protection and comfort in cold weather;

(2) Sleeping bags that are fiber-filled, fire retardant, and rated for 0°F;

(3) Mattresses and pillows that meet federal regulations; and

(4) Screening or mosquito nets in the children's personal sleeping areas.

H. Clothing. The licensee shall provide each child with an adequate supply of clean clothing, suitable for outdoor living and appropriate for weather conditions, and sturdy, water resistant outdoor shoes or boots.

I. Fire Safety. The licensee shall equip each wilderness site with a fire extinguisher located not more than 75 feet from each combustible fuel heating device or campfire.

14.31.07.07

.07 Programs for Medically Fragile Children.

A. Additional Requirements. In addition to the requirements set out in COMAR 14.31.05 and 14.31.06, a program for medically fragile children also shall meet the requirements of this regulation.

B. Staff. The licensee shall:

(1) Ensure that a health care professional licensed to practice in the State trains child care staff, based on the individual needs of each child; and

(2) Obtain consultation services from a pediatric medical specialist for input on the placement of and ongoing care decisions regarding the children.

C. Physical Plant.

(1) If specialized equipment is necessary for a child, the licensee shall provide adequate square footage space in excess of the minimum standards otherwise required by COMAR 14.31.06.

(2) The licensee shall equip the physical plant with sufficient electrical service and outlets for assistive technology or special equipment.

(3) The licensee shall maintain a back-up generator for electrical outages and, if necessary, provide for emergency sources of heat.

D. Emergency Medical Plan. The licensee shall ensure that each child's individual service plan includes a child-specific emergency protocol that is immediately accessible to employees.

E. Emergency Management Plan. As part of its emergency management plan, the licensee shall notify public utilities of the existence of the program.

14.31.07.08

.08 Programs for Children with Developmental Disabilities.

A. Additional Requirements. In addition to the requirements set out in COMAR 14.31.05 and 14.31.06, a program for children with developmental disabilities also shall meet the requirements of this regulation.

B. Quality Assurance. The licensee shall conform to the quality assurance standards established in COMAR 10.22.02.14.

C. Standing Committee. The licensee shall establish a standing committee or committees to:

(1) Perform the quality assurance functions set forth in COMAR 14.31.05;

(2) Review the licensee's protocol for identifying, reporting, documenting, investigating, and reviewing of incidents to ensure compliance with the licensing agency's procedures;

(3) Monitor implementation of the licensee's protocol identified in §C(2) of this regulation, including a review of all incidents in an effort to identify deficient practices and recommend necessary corrective action;

(4) Approve all behavior plans that use restrictive techniques to ensure that the behavior plan complies with the requirements of COMAR 10.22.10, 10.22.04.03A, and 14.31.05.15;

(5) Review, approve, and establish the time frame for the restriction of a right if it is not related to a challenging behavior, in accordance with COMAR 10.22.04.03A, or other requirements appropriate to the licensing agency;

(6) Review the licensee's policies and procedures and practices to ensure that they adequately protect the legal and human rights of each child served by the licensee; and

(7) Unless otherwise provided for, be organized to perform the functions set forth in §A of this regulation for one or more licensees.

D. Standing Committee Composition.

(1) For programs licensed by the Department of Health and Mental Hygiene, the committee or committees shall include an equal number of licensee staff, and child proponents or members of the community who are not employed by the licensee. For a committee member who is remunerated only to serve as a member of the committee, that member is not counted as staff or as a member of the community.

(2) For programs serving children with developmental disabilities licensed by other licensing agencies, the committee shall be established in accord with the licensing agency's policy.

E. Consultation. The committee or committees may consult with a licensed health professional such as a social worker, psychologist, physician, physician's assistant, nurse practitioner, or board-certified clinical pharmacist, as needed.

F. Conflict of Interest. A committee member may not participate in the decision making process of any:

(1) Incident in which the committee member was involved; or

(2) Behavior plan that the committee member has developed.

G. Meetings. The committee or committees shall meet as needed to perform the functions identified in §E of this regulation, with at least a majority of members present.

H. Confidentiality. The committee or committees shall ensure confidentiality of information regarding the child in accordance with Health-General Article, §7-1010, Annotated Code of Maryland, and COMAR 14.31.06.18.

I. Use of Restraints. For licensees of the Department of Health and Mental Hygiene, appropriate methods of preventing or managing challenging behaviors may include the use of mechanical restraints.

J. Change in Licensure Status.

(1) A licensee may voluntarily surrender its license in accordance with COMAR 10.22.02.02F.

(2) A licensee wishing to open, close, or relocate a site shall meet the requirements of COMAR 14.31.05.05.

(3) If a licensee is required to open, close, or relocate a site due to an emergency and the notice requirements set forth in COMAR 14.31.05.09E cannot be met, the licensee shall notify the regional director who shall notify the licensing agency to ensure compliance with all relevant regulations.

K. Policies and Procedures. A licensee shall develop and adopt written policies and procedures in addition to those policies and procedures required in COMAR 14.31.06 to ensure:

- (1) The fundamental rights of residents in accordance with Health-General Article, §7-1002, Annotated Code of Maryland;
- (2) Confidentiality for each individual in accordance with Health-General Article, §7-1010, Annotated Code of Maryland;
- (3) The implementation of a grievance process with safeguards that protect against retaliatory actions for the filing of any grievance;
- (4) The reporting and investigation of all incidents, including those involving life-threatening conditions, in accordance with the Developmental Disabilities Administration's procedures on reportable incidents;
- (5) The administration of medications in accordance with the practices established by the curriculum of the Developmental Disabilities Administration on medication training;
- (6) Compliance with COMAR 10.27.11;
- (7) Assurance that, before a child is to be required to pay for property damage caused by the individual's actions, the child's individual plan shows evidence that:
 - (a) The child has a history of destructive behavior that has been documented in the child's behavior plan;
 - (b) The child has a behavior plan that addresses the destructive behavior;
 - (c) The child's family has the ability to pay for damages;
 - (d) The licensee's standing committee has reviewed and approved the damage payment; and
 - (e) The licensee has reported this approval to the regional director of the Developmental Disabilities Administration;
- (8) Compliance with Health-General Article, §5-605, Annotated Code of Maryland; and
- (9) The absence of a financial or personal conflict of interest for members of the governing body, staff, care providers, volunteers, and standing committee members in their work with the program.

14.31.07.09

.09 Shelter Care Programs.

A. In addition to the requirements set out in COMAR 14.31.05 and 14.31.06, a licensee shall ensure a program that provides shelter care also meets the requirements of this regulation.

B. Requirements for Non-Agency Placements.

(1) If a person or entity other than an agency places a child in shelter care, the licensee shall seek authorization for the placement by:

(a) Moving, within 24 hours after admission, to acquire legal custody of the child; or

(b) Requesting the consent of the child's parent for the placement and for any routine or emergency medical, dental, or mental health care.

(2) If the licensee is unable to obtain consent, the licensee shall document the efforts made to obtain consent and the reasons for the failure.

C. The licensee shall ensure that a child newly admitted to shelter care receives timely health care, including:

(1) Within 24 hours of admission, an initial health screening by a medical care provider;

(2) Immediate treatment of any communicable disease or serious injury; and

(3) Within 30 days of admission, a comprehensive medical examination.

D. The licensee shall ensure the provision of appropriate educational services for all children placed in the facility in accordance with the requirements of COMAR 14.31.06.12A.

14.31.07.10

.10 Pregnant Adolescents.

A. In addition to the requirements set out in COMAR 14.31.05 and 14.31.06, a licensee shall ensure a program caring for pregnant adolescents also meets the requirements of this regulation.

B. A program caring for pregnant adolescents shall ensure that:

(1) All pregnant adolescents receive comprehensive prenatal care, including:

(a) A medical care program outlined by a licensed medical professional; and

(b) Participation in a child birth class provided by a qualified and competent childbirth educator.

(2) Arrangements for the delivery of the child are made:

(a) By the end of the second trimester;

(b) In situations when the adolescent is already pregnant beyond the second trimester, upon admission to the facility; or

(c) Within 15 consecutive calendar days of the adolescent's admission to the facility.

(3) Delivery arrangements are clearly recorded in the adolescent's medical record to which appropriate employees have access in an emergency;

(4) Pregnant adolescents receive a dental examination within 3 consecutive calendar months of admission, and that needed dental care is provided;

(5) Identification of pediatric services is provided at least 3 months before anticipated delivery; and

(6) Day care arrangements in an approved day care home or center are made.

14.31.07.11

.11 Mother-Infant Programs.

A. In addition to the requirements set out in COMAR 14.31.05 and 14.31.06, a licensee shall ensure a program that provides mother-infant services also meets the requirements of this regulation.

B. A licensee may provide care and service for children who are mothers with an infant if:

(1) The licensing agency approves the program in writing;

(2) The licensee ensures that adolescents follow the advice of a licensed physician regarding the health care of the adolescent's child;

(3) The licensee provides the mother with:

(a) Sanitary space, a table, and plumbing necessary to change diapers;

(b) Competent instruction in the care and nurturing of infants;

(c) Limits on her social activities to ensure that she is responsible for her infant;

(d) Opportunity, encouragement, and structure for the completion of her education;

(e) Encouragement to develop her capacity for and understanding of her independence;

(f) Assurance that any child care center or home where the infant may be placed during daytime hours is licensed under State law;

- (g) Professional guidance, training, and counseling in human sexuality; and
- (h) A bed in a room separate from where the infant sleeps after the infant is 6 months old;
- (4) The licensee assures that the infant is provided with:
 - (a) Protection from harm;
 - (b) Access to health care;
 - (c) Proper food and nutrition;
 - (d) Physical warmth and nurture;
 - (e) Protection from disease;
 - (f) Physical comfort;
 - (g) Proper sleeping environment in an appropriate crib;
 - (h) Appropriate feeding schedule;
 - (i) Regularly changed diapers in a sanitary environment;
 - (j) When the infant is 6 months old, a crib in a room separate from where the mother sleeps;
 - (k) Pediatric care in accordance with Early and Periodic Screening, Diagnosis, and Treatment schedules; and
 - (l) Required immunizations;
- (5) The licensee ensures that direct care workers in this program:
 - (a) Receive 10 hours of training specific to infant care before assuming duties in a mother-infant program as part of the training requirements of COMAR 14.31.06; and
 - (b) Annually receive 15 hours of training specific to the mother-infant program as part of the training requirements of COMAR 14.31.06; and
- (6) The program provides the licensing agency with a written policy regarding the care of an adolescent's child by another adolescent in residence in which the following conditions are met:
 - (a) The adolescent assumes care of no more than one other child in addition to her own at any time;
 - (b) The adolescents discuss the expectations of the caregiver, including:

- (i) Duration of child care;
 - (ii) The child's nutritional and toileting needs; and
 - (iii) Any arrangements for compensation or exchange of baby-sitting; and
- (c) The arrangement is reviewed and approved by the program administrator or the program administrator's designee.

14.31.07.12

.12 Therapeutic Group Homes.

A. A therapeutic group home shall meet the requirements of COMAR 14.31.05 and 14.31.06, with the following exceptions:

- (1) COMAR 14.31.06.17B;
- (2) COMAR 14.31.06.17C; and
- (3) COMAR 14.31.06.17D.

B. A therapeutic group home shall also meet the requirements of the following regulations found in COMAR 10.21.07:

- (1) COMAR 10.21.07.02;
- (2) COMAR 10.21.07.03B;
- (3) COMAR 10.21.07.05B;
- (4) COMAR 10.21.07.05C;
- (5) COMAR 10.21.07.06B;
- (6) COMAR 10.21.07.07;
- (7) COMAR 10.21.07.08A(1);
- (8) COMAR 10.21.07.08C;
- (9) COMAR 10.21.07.09;
- (10) COMAR 10.21.07.10C;
- (11) COMAR 10.21.07.11;

(12) COMAR 10.21.07.12;

(13) COMAR 10.21.07.13B;

(14) COMAR 10.21.07.14; and

(15) COMAR 10.21.07.17B.

14.31.07.13

.13 Community Mental Health Programs Providing Residential Crisis Services.

In addition to the requirements of COMAR 14.31.05 and 14.31.06, a community mental health program providing residential crisis services shall meet the requirements of COMAR 10.21.26.

14.31.07.14

.14 Community Mental Health Programs Providing Respite Care Services.

In addition to the requirements of COMAR 14.31.05 and 14.31.06, a community mental health program providing respite care services shall meet the requirements of COMAR 10.21.27.

14.31.07.9999

Administrative History

Effective date: November 22, 2004 (31:23 Md. R. 1651)

COMAR 01.04.08 revised and recodified to COMAR 14.31.07 as an emergency provision effective June 30, 2005 (32:15 Md. R. 1314); revised and recodified permanently effective November 28, 2005 (32:23 Md. R. 1828)