STANDARDS FOR THE REGULATION OF CHILDREN'S RESIDENTIAL FACILITIES

OFFICE OF LICENSING

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CHAPTER 46
STANDARDS FOR REGULATION
CHILDREN'S RESIDENTIAL FACILITIES

PART I GENERAL PROVISIONS

12VAC35-46-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

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

"Annual" means within 13 months of the previous event or occurrence.

"Applicable state regulation" means any regulation that the department determines applies to the facility. The term includes, but is not necessarily limited to, regulations promulgated by the Departments of Education, Health, Housing and Community Development, or other state agencies.

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

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

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

"Behavior support assessment" means identification of a resident's behavior triggers, successful intervention strategies, anger and anxiety management options for calming, techniques for self-management, and specific goals that address the targeted behaviors that lead to emergency safety interventions.

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

"Brain injury" means any injury to the brain that occurs after birth, but before age 65, that is acquired through traumatic or nontraumatic insults. Nontraumatic insults may include, but are not limited to, anoxia, hypoxia, aneurysm, toxic exposure, encephalopathy, surgical interventions, tumor, and stroke. Brain injury does not include hereditary, congenital, or degenerative brain disorders, or injuries induced by birth trauma.

"Brain Injury Waiver" means a Virginia Medicaid home and community-based waiver for persons with brain injury approved by the Centers for Medicare and Medicaid Services.

"Care" or "treatment" means a set of individually planned interventions, training, habilitation, or supports that help a resident obtain or maintain an optimal level of functioning, reduce the effects of disability or discomfort, or ameliorate symptoms, undesirable changes or conditions specific to physical, mental, behavioral, or social functioning.

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

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

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

1. Any facility licensed by the Department of Social Services as a child-caring institution as of January 1, 1987, and that receives public funds; and

2. Acute-care private psychiatric hospitals serving children that are licensed by the Department of Behavioral Health and Developmental Services under the Rules and Regulations for the Licensing of Providers of Mental Health, Mental Retardation and Substance Abuse, the Individual and Family Developmental Disabilities Support Waiver, and Residential Brain Injury Services, 12VAC35-105.

"Commissioner" means the Commissioner of the Department of Behavioral Health and Developmental Services or his authorized agent.

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

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

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

"Counseling" means certain formal treatment interventions such as individual, family, and group modalities that provide for support and problem solving. Such interventions take place between provider staff and resident families or groups and are aimed at enhancing appropriate psychosocial functioning or personal sense of well-being.

"Corrective action plan" means the provider's pledged corrective action in response to cited areas of noncompliance documented by the department. A corrective action plan must be completed within a specified time.

"Crisis" means any acute emotional disturbance in which a resident presents an immediate danger to self or others or is at risk of serious mental or physical health deterioration caused by acute mental distress, behavioral or situational factors, or acute substance abuse related problems.

"Crisis intervention" means those activities aimed at the rapid management of a crisis.

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

"Department" means the Department of Behavioral Health and Developmental Services (DBHDS).

"DOE" means the Department of Education.

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

"Emergency admission" means the sudden, unplanned, unexpected admittance of a child who needs immediate care or a court-ordered placement.

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

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

"Group home" means a children's residential facility that is a community-based, homelike single dwelling, or its acceptable equivalent, other than the private home of the operator, and serves up to 12.

"Health record" means the file maintained by the provider that contains personal health information.

"Human research" means any systematic investigation including research development, testing, and evaluation, utilizing human subjects, that is designed to develop or contribute to generalized knowledge. Human research shall not include research exempt from federal research regulations pursuant to 45 CFR 46.101(b).

"Immediately" means directly without delay.

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

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

"Intellectual disability" means mental retardation.

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

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

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

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

"Mechanical restraint" means the use of a mechanical device that cannot be removed by the individual to restrict the freedom of movement or functioning of a limb or a portion of an individual's body when that behavior places him or others at imminent risk.

"Medication" means prescribed and over-the-counter drugs.

"Medication administration" means the direct application of medications by injection, inhalation, or ingestion or any other means to a resident by (i) persons legally permitted to administer medications; or (ii) the resident at the direction and in the presence of persons legally permitted to administer medications.

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

"Mental retardation" ("intellectual disability") means a disability originating before the age of 18 years characterized concurrently by (i) significantly subaverage intellectual functioning as demonstrated by performance on a standardized measure of intellectual functioning, administered in conformity with accepted professional practice, that is at least two standard deviations below the mean; and (ii) significant limitations in adaptive behavior as expressed as conceptual, social, and practical adaptive skills (§ 37.2-100 of the Code of Virginia). According to the American Association of Intellectual Disabilities (AAID) definition, these impairments should be assessed in the context of the individual's environment, considering cultural and linguistic diversity as well as differences in communication, and sensory motor and behavioral factors. Within an individual limitations often coexist with strengths. The purpose of describing limitations is to develop a profile of needed supports. With personalized supports over a sustained period, the functioning of an individual will improve. In some organizations the term "intellectual disability" is used instead of "mental retardation."

"Neurobehavioral services" means the assessment, evaluation, and treatment of cognitive, perceptual, behavioral, and other impairments caused by brain injury, that affect an individual's ability to function successfully in the community.

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

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

"On-site" means services that are delivered by the provider and are an integrated part of the overall service delivery system.

"Parent" means a natural or adoptive parent or surrogate parent appointed pursuant to DOE's regulations governing special education programs for students with disabilities." "Parent" means either parent unless

the facility has been provided documentation that there is a legally binding instrument, a state law, or court order governing such matters as divorce, separation, or custody, that provides to the contrary.

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

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

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

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

"Provider" means any person, entity, or organization, excluding an agency of the federal government by whatever name or designation, that delivers (i) residential services to children with mental illness, mental retardation (intellectual disability), or substance abuse; or (ii) residential services for persons with brain injury.

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

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

"Residential treatment program" means 24-hour, supervised, medically necessary, out-of-home programs designed to provide necessary support and address mental health, behavioral, substance abuse, cognitive, or training needs of a child or adolescent in order to prevent or minimize the need for more intensive inpatient treatment. Services include, but shall not be limited to, assessment and evaluation, medical treatment (including medication), individual and group counseling, neurobehavioral services, and family therapy necessary to treat the child. The service provides active treatment or training beginning at admission related to the resident's principle diagnosis and admitting symptoms. These services do not include interventions and activities designed only to meet the supportive nonmental health special needs including, but not limited to, personal care, habilitation, or academic educational needs of the resident.

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

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

"Restraint" means the use of a mechanical device, medication, physical intervention, or hands-on hold to prevent an individual from moving his body to engage in a behavior that places him or others at imminent risk. There are three kinds of restraints:

1. ***Mechanical restraint*** means the use of a mechanical device that cannot be removed by the individual to restrict the freedom of movement or functioning of a limb or a portion of an individual's body when that behavior places him or others at imminent risk.

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

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

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

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

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

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

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

"Serious incident" means:

1. Any accident or injury requiring medical attention by a physician;

2. Any illness that requires hospitalization;

3. Any overnight absence from the facility without permission;

4. Any runaway; or

5. Any event that affects, or potentially may affect, the health, safety or welfare of any resident being served by the provider.

"Serious injury" means any injury resulting in bodily hurt, damage, harm, or loss that requires medical attention by a licensed physician.

"**Service" or "services"** means planned individualized interventions intended to reduce or ameliorate mental illness, mental retardation (intellectual disability), or substance abuse through care, treatment, training, habilitation, or other supports that are delivered by a provider to individuals with mental illness, mental retardation (intellectual disability), or substance abuse. Services include residential services, including those for persons with brain injury.

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

"Social skills training" means activities aimed at developing and maintaining interpersonal skills.

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

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

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

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

"Substantial compliance" means that while there may be noncompliance with one or more regulations that represents minimal risk, compliance clearly and obviously exists with most of the regulations as a whole.

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

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

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

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

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

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

"Variance" means temporary or permanent waiver of compliance with a regulation or portion of a regulation, or permission to meet the intent of the regulation by a method other than that specified in the regulation, when the department, in its sole discretion, determines (i) enforcement will create an undue hardship and (ii) resident care will not be adversely affected.

"Volunteers" means any individual or group who of their own free will, and without any financial gain, provides goods and services to the program without compensation.

12VAC35-46-20. Service Description and Applications; required elements.

A. In order to determine whether an applicant is subject to these regulations, the applicant must submit a service description initially.

B. Each provider shall have a written service description that accurately describes its structured program of care and treatment consistent with the treatment, habilitation, or training needs of the residential population it serves. Service description elements shall include:

1. The mental health, substance abuse, mental retardation, or brain injury population it intends to serve;

2. The mental health, substance abuse, mental retardation, or brain injury interventions it will provide;

3. Provider goals;

4. Services provided; and

5. Contract services, if any.

C. The provider shall develop, implement, review, and revise its services according to the provider's mission and shall have that information available for public review.

D. Initial applications.

1. A completed application includes, but is not limited to, an initial application form; proposed working budget for the year showing projected revenue and expenses for the first year of operation and a balance sheet showing assets and liabilities; evidence of financial resources or a line of credit sufficient to cover estimated operating expenses for 90 days unless the facility is operated by a state or local government agency, board, or commission; a service description; a proposed staffing/supervision plan including the staff information sheet; copies of all job descriptions; evidence of the applicant's authority to conduct business in Virginia; a copy of the floor plan with dimensions of rooms; a certificate of occupancy; current health inspection; evidence of consultation with state or local fire prevention authorities; a list of board members, if applicable; three references for the applicant; and, if required by the department, references for three officers of the board if applicable. This information shall be submitted to and approved by the department in order for the application to be considered complete.

2. All initial applications that are not complete within 12 months shall be closed.

3. Facilities operated by state or local government agencies, boards, and commissions shall submit evidence of sufficient funds to operate including a working budget showing appropriated revenue and projected expenses for the coming year.

4. Currently licensed providers shall demonstrate that they are operating in substantial compliance with applicable regulations before new facilities operated by the same provider will be licensed.

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

Interpretation of § 20: An application is complete when all questions are answered in the appropriate spaces, required documents are attached, and it is signed and dated by an individual legally responsible for the operation of the facility. If the facility is privately owned, the owner must sign the application. If it is operated by an association or corporation, an officer of the board, preferably the chair, must sign the initial application. A director/administrator employed by the owner or the board to operate the facility may sign the renewal application, but not the initial application.

If the facility is to be operated by a governmental entity, the person employed to operate the facility may sign either application.

The lead regulatory authority will review the application. If, after reviewing the application, it is determined that it is incomplete, the applicant will be notified of the additional material needed.

The date all information is received is the official date of application.

All completed applications should be returned to the Office of Licensing.

Applications and any subsequent information received will be reviewed in the order in which it is received.

12VAC35-46-30. The Investigation.

The department shall arrange and conduct an on-site inspection of the facility and a thorough review of the services and an investigation of the character, reputation, status, and responsibility of the applicant.

12VAC35-46-40. Review of facilities.

A. Representatives of the department shall make announced and unannounced reviews during the effective dates of the license. The purpose of these reviews is to monitor compliance with applicable regulations.

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

12VAC35-46-50. Posting of information.

A. Information concerning the application for initial licensure of children's residential facilities shall be posted to the department's website by locality.

Interpretation of § 60: The Interdepartmental Regulation web site is www.dbhds.virginia.gov.

B. An accurate listing of all licensed facilities including information on renewal, denial, or provisional licensure, and services shall be posted on the department's website by locality.

12VAC35-46-60. General requirements.

A. The provider shall demonstrate substantial compliance with these regulations to demonstrate that its program and physical plant provide reasonably safe and adequate care while approved plans of action to correct findings of noncompliance are being implemented and there are no noncompliances that pose an immediate and direct danger to residents.

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

Interpretation of § 60.B: Corporations that are incorporated in Virginia must have a certificate of incorporation from the6State Corporation Commission. Corporations that are incorporated in other states or countries must receive a certificate of authority which authorizes the corporation to conduct business in Virginia. A copy of this certificate of authority must be viewed for any corporation that in not incorporated in Virginia when the facility being licensed/certified is located in Virginia.

Documentation may be requested to verify the facility's business status.

Questions regarding regulations governing corporations should be directed to the State Corporation Commission.

C. The provider shall comply with the terms of its license.

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

Interpretation of § 60.D: When a change in ownership or sponsorship occurs, an initial application for licensure/certification must be submitted. See § 20.A for the requirements concerning initial applications.

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

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

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

H. Each provider shall self-report to the department within 10 days lawsuits against or settlements with residential facility operators relating to the health and safety or human rights of residents and any criminal charges against staff that may have been made relating to the health and safety or human rights of residents.

Interpretation of § 60.H: Notification should be in writing and received by the Department within 10 days. A model form can be found on the Department's web site, www.dbhds.virginia.gov.

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

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

Interpretation of § 60.J: Readily accessible means found in every building where residents are housed.

Compliance Determination for § 60:

1. Interview staff to determine if they know where the policy and procedure manual is located. Can they retrieve the manual quickly?

2. Ask the CAO or Program Director how the manual is kept current.

K. Providers shall not engage in willful action or gross negligence that jeopardizes the care or protection of residents.

L. Providers shall not engage in conduct or practices that are in violation of statutes related to abuse or neglect of children.

M. Providers shall not deviate significantly from the program or services for which a license was issued without obtaining prior written approval from the department.

N. Providers shall not make false statements on the application for licensure or misrepresent facts in the application process.

12VAC35-46-70. Resident's rights.

Each provider shall guarantee resident rights as outlined in § 37.2-400 of the Code of Virginia and in the Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services (12VAC35-115).

12VAC35-46-80. Written corrective action plans.

A. If there is noncompliance with applicable regulations during an initial or ongoing review or investigation, the department shall issue a licensing report describing the noncompliance and requesting the provider to submit a corrective action plan.

B. The provider shall submit to the department and implement a written corrective action plan for each regulation for which the provider is found to be in noncompliance.

C. The corrective action plan shall include a:

1. Description of each corrective action to be taken to correct the noncompliance and to prevent reoccurrence in the future and the person responsible for implementation;

2. Date of completion for each action; and

3. Signature of the person responsible for oversight of the implementation of the pledged corrective action.

Interpretation of § 80.C: The corrective action plan response should include actions to be taken to prevent reoccurrence of the violation. For example, if a window is broken the response should not just indicate that the specific window will be fixed but should also include a plan to ensure that future broken windows are found and repaired in a timely manner.

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

Interpretation of § 80.D Providers are encouraged to e-mail their corrective action plan to the Department. The provider may request that a return e-mail be sent to them to document that the corrective action plan has been received.

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

Interpretation of § 80.E: Failure to develop, submit and implement an approved corrective action plan may result

12VAC35-46-90. Licenses.

A. A conditional license shall be issued to a new provider that demonstrates compliance with administrative and policy requirements but has not demonstrated compliance with all of these regulations. A conditional license shall not exceed six months, but may be renewed, not to exceed 12 successive months for all conditional licenses and renewals combined.

Interpretation of § 90.A: Compliance with all requirements can not be assessed because facilities do not have residents and are not fully staffed or operational during the initial study. The issuance of a conditional license allows time for the applicant to demonstrate compliance with standards.

B. A provisional license may be issued to a provider that has demonstrated an inability to maintain compliance with these regulations or other applicable regulations, has violations of licensing regulations that pose a threat to the health or safety of residents being served, or has two or more systemic deficiencies.

1. A provisional license may be issued at any time.

2. The term of a provisional license may not exceed six months unless allowed by the Code of Virginia.

3. A provisional license may be renewed, but a provisional license and any renewals shall not exceed 12 successive months for all provisional licenses and renewals combined.

C. An annual license:

1. Shall be issued when the provider applies for renewal while holding a conditional or provisional license or certificate and substantially meets or exceeds the requirements of these regulations and other regulations and statutes.

2. May be issued at any time if the provider has received one systemic deficiency.

3. May be renewed, but an annual license or certificate and any renewals thereof shall not exceed a period of 36 successive months for all annual licenses and renewals combined.

D. A triennial license shall be issued when the provider:

1. Applies for renewal while holding an annual or triennial license; and

2. Substantially meets or exceeds the requirements of these regulations and other applicable regulations and statutes.

E. The term of a facility's license may be modified at any time during the licensure period based on a change in the facility's compliance with these regulations and other applicable statutes and regulations.

Interpretation of § 90.E: A facility's license or certificate may be reduced if the facility is found to have one or more systemic deficiencies.

12VAC35-46-100. Application fees.

A. There shall be a $500 nonrefundable initial application fee. If the application is closed, denied, or withdrawn all subsequent initial applications shall require another $500 fee.

Interpretation of § 100.A: Applicants should thoroughly review their applications to ensure that they are complete, before submitting the application. Additional fees will apply if the application is submitted, withdrawn, and then resubmitted.

B. There shall be a $100 nonrefundable renewal application fee.

C. A renewal fee shall not be charged to providers directly following the issuance of a conditional license.

D. The application fee shall not apply to state or local government-owned, operated, or contracted facilities.

E. Application fees shall be used for the development and delivery of training for providers and staff of children's residential facilities and regulators of these facilities.

12VAC35-46-110. Modification.

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

Interpretation of § 110.A: During the conditional licensure period major changes in the scope of the services provided may not be approved.

Providers that plan to move their facility to a new location must request a modification to their license before the move is made.

B. The provider shall submit a written report of any contemplated changes in operation that would affect the terms of the license or the continuing eligibility for licensure to the department.

C. A change shall not be implemented prior to approval by the department. The provider shall be notified in writing within 60 days following receipt of the request as to whether the modification is approved or a new license is required.

Interpretation of § 110: Data submitted by the provider may be sufficient for the Department determine whether to approve or deny the request. In some cases, a site visit will be necessary.

12VAC35-46-120. Denial.

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

1. Violates any provision of applicable laws or regulations made pursuant to such laws;

2. Has a founded disposition of child abuse or neglect after the appeal process has been completed;

3. Has been convicted of a crime listed in § 37.2-416 or 63.2-1726 of the Code of Virginia;

4. Has made false statements on the application or misrepresentation of facts in the application process;

5. Has not demonstrated good character and reputation as determined through references, background investigations, driving records, and other application materials;

6. Has a history of adverse licensing actions or sanctions;

7. Permits, aids, or abets in the commission of an illegal act in services delivered by the provider; or

8. Engages in conduct or practices detrimental to the welfare of any individual receiving services from the provider.

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

Interpretation of § 120.B: Information regarding the appeal process will be provided by the Department.

12VAC35-46-130. Revocation.

A. A license may be revoked when the provider:

1. Violates any provision of applicable laws or regulations;

2. Engages in conduct or practices that are in violation of statutes related to abuse or neglect of children;

3. Deviates significantly from the program or services for which a license was issued without obtaining prior written approval from the department or fails to correct such deviations within the specified time;

4. Permits, aids, or abets the commission of an illegal act in services delivered by the provider; or

5. Engages in conduct or practices detrimental to the welfare of any individual receiving services.

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

Interpretation of § 130.B: Information regarding the appeal process will be provided by the Department.

12VAC35-46-140. Summary suspension.

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

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

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

1. The time, date, and location of the hearing;

2. The procedures for the hearing;

3. The hearing and appeal rights; and

4. Facts and evidence that formed the basis for the order of summary suspension.

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

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

F. The administrative hearing officer shall provide written findings and conclusions, together with a recommendation as to whether the license should be summarily suspended, to the commissioner within five business days of the hearing.

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

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

1. A final order of summary suspension including (i) the basis for accepting or rejecting the hearing officer's recommendations and (ii) notice that the children's residential facility may appeal the commissioner's decision to the appropriate circuit court no later than 10 days following issuance of the order; or

2. Notification that the summary suspension is not warranted by the facts and circumstances presented and that the order of summary suspension is rescinded.

I. The facility may appeal the commissioner's decision on the summary suspension to the appropriate circuit court no more than 10 days after issuance of the final order.

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

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

12VAC35-46-150. Variances.

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

1. Justification why enforcement of the regulation would create an undue hardship;

2. How the facility can comply with the intent of the regulation; and

3. Justification why resident care would not be adversely affected if the variance was granted.

B. A variance shall not be implemented prior to approval of the department.

Interpretation of § 150: Refer to 12VAC 35-46-10 for a definition of variance. Variances may be approved for (1) a specific time period, (2) until an anticipated change occurs, or (3) may remain effective as long as the conditions which were the basis for granting the variance remain unchanged.

When it is necessary to issue a license/certificate while a variance request is pending, noncompliance is cited in the corrective action plan with a notation recognizing that a variance has been requested.

Variances are conditioned upon there being no change in the circumstances which were the basis for the approval. They are subject to review. Any variance may be rescinded by the Department if conditions change, additional information becomes known, or the provider fails to meet any conditions attached to the variance. Variances expire automatically when there is a change in the facility's location or ownership. A variance will not be granted for requirements found in the Code of Virginia.

12VAC35-46-160. Investigation of complaints and allegations.

The department is responsible for complete and prompt investigation of all complaints and allegations made against providers, and for notification of the appropriate persons or agencies when removal of residents may be necessary. Suspected criminal violations shall be reported to the appropriate law-enforcement authority.

PART II ADMINISTRATION

12VAC35-46-170. Governing Body.

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

Intent of § 170: The purpose of these standards is to insure that there be a clearly identified group of people (or person or partnership, when applicable) responsible for the operation of the facility. It is essential that this group of people assume the authority to make the decisions necessary to facilitate the operation of the facility as required by applicable statutes and regulations.

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

Compliance Determination for § 170:

1. *Review the list of members of the governing board/body, if applicable.*

2. *Talk with the administrator about the person or organization to whom he is responsible and the role of this person or organization. If necessary, review any supporting documentation.*

12VAC35-46-180. Responsibilities of the Provider.

Intent of § 180: The provider's primary responsibility is to manage the organization including hiring qualified people to perform the work.

The provider is ultimately responsible for the operation and management of the facility, even though it may delegate the responsibilities for managing the day-to-day operations to a chief administrative officer.

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

Interpretation of § 180.A: The delegation of the authority and responsibility for administrative direction of the facility may be found in the chief administrator's job description.

B. The provider shall develop and implement a written decision-making plan that shall provide for a staff person with the qualifications of the chief administrative officer or program director to be designated to assume the temporary responsibility for the operation of the facility. Each plan shall include an organizational chart.

Interpretation of § 180.B: A qualified individual may assume the responsibility for the duties of the chief administrative officer or the program director on a temporary basis, not to exceed three months, without regulatory approval.

A decisionmaking plan outlines the chain of command to be followed when the highest level of authority is not available. The plan should show at what level major decisions are made. The goal is for all staff to be aware of who to go to for decisions and what decisions they can and cannot make at their own level. There is no specified model for the decisionmaking plan and the plan will vary according to the complexity of the facility. Some facilities may show the decisionmaking plan only on an organizational chart while other facilities may use an organizational chart plus narratives.

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

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

Interpretation of § 180.D: Program evaluation is a valuable tool for providers to use to strengthen the quality of their programs and improve outcomes for the children and youth they serve. Program evaluations answer basic questions about a program's effectiveness, and evaluation data can be used to improve services. According to the United States Department of Health and Human Services' Administration for Children and Families, program evaluation is a systematic method for collecting, analyzing, and using information to answer basis questions about a program.

Providers must define how their program will evaluate and review services provided to residents. They must determine what is working well and where improvements can be made. This may include looking at outcome measures, serious incidents, AWOL's, recidivism, school performance, unplanned discharges, medication errors, the number of physical restraints performed, residents who leave and are able to live independently, etc.

Compliance Determination for § 180:

1. *Review the written document that delegates authority and responsibility to the administrator.*

2. *Review the written job description of the chief administrative officer.*

3. *Review the facility's decisionmaking plan to determine if the chain of command is easily understood and that it clearly shows at what level specific decisions are made.*

4. *Review the facility's written statement of philosophy and objectives for inclusion of:*
   a. *a description of the population to be served, and*

b. a description of the programs and services to be provided.

5. Review policies and procedures for monitoring and evaluating service quality. Review documentation and interview staff to confirm that the provider has implemented improvements as indicated by the program evaluation.

12VAC35-46-190. Fiscal accountability.

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

1. An operating statement showing revenue and expenses for the fiscal year just ended;

2. A working budget showing projected revenue and expenses for the next fiscal year that gives evidence that there are sufficient funds to operate; and

3. A balance sheet showing assets and liabilities for the fiscal year just ended.

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

Interpretation of § 190.B: Each facility must have financial records separate from any other financial records of the provider, larger corporation, or other facilities operated by the same owner.

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

1. Handling of deposits;

2. Writing of checks; and

3. Handling of petty cash.

12VAC35-46-200. Insurance.

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

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

Compliance Determination for § 200:
View evidence of insurance policy(ies) or statement(s) from the insurance company or agent for coverage of facility's premises, operations and vehicles. Note the effective dates of coverage. Facilities where staff drive their own cars must show evidence staff owned cars are insured.

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

Compliance Determination for § 200.C:
Determine if and how those authorized to handle facility funds are bonded and view evidence of coverage. Note the effective dates of coverage.

12VAC35-46-210. Fundraising.

The provider shall not use residents in its fundraising activities without written permission of the legal guardian and the permission of residents 14 years or older.

Interpretation of § 210: If residents participate in fund-raising activities, obtaining permission is one means of ensuring that their privacy is protected, that measures are taken to safeguard confidential information about the residents' problems and needs and that the appropriateness of the activity is assessed.

Compliance Determination for § 210:
1. Determine if residents are involved in fund raising activities; and

2. If residents do participate in fund raising activities, review the written permission of the legal guardian and the written permission of residents 14 years or older.

12VAC35-46-220. Weapons.

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

1. In the possession of licensed security personnel or law-enforcement officers;

2. Kept securely under lock and key; or

3. Used by a resident with the legal guardian's permission under the supervision of a responsible adult in accord with policies and procedures developed by the facility for the weapons' lawful and safe use.

Interpretation of § 220: Firearms are weapons from which shot is discharged by gunpowder. Except for officers or Federal, State or local employees while engaged in the performance of official duties, anyone who provides security services and carries a firearm at a facility must be: 1) licensed by the State (Department of Criminal Justice Services) as a security services business;

or 2) registered by the State (Department of Criminal Justice Services) as a guard authorized to carry firearms.

The term responsible adult implies that the facility has reasonable grounds to believe that the individual has sufficient knowledge, judgment, and maturity commensurate to the demands of the situation for which he is assuming authority and responsibility.

Compliance Determination for § 220:

1. *Confirm that the facility has written policy governing the possession and use of fire arms, pellet guns, air rifles and other weapons on the premises of the facility and on facility sponsored activities. Ensure that the policy provides for the conditions cited in the standard.*
2. *Note the presence of any firearms and ask the administrator if there are any firearms on the premises of the facility including staff quarters.*
3. *If any firearms are present on the premises of the facility, check to see that they are either securely under lock and key or in the possession of licensed security personnel. If any security personnel possess firearms, ask to see proof that these persons are registered as security personnel authorized to carry firearms.*
4. *Ask the administrator if children are permitted to use firearms and under what circumstances. If residents are permitted to use firearms view documentation of the legal guardian's permission.*

12VAC35-46-230. Relationship to the department.

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

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

12VAC35-46-240. Facilities serving persons over the age of 17 years.

Intent of § 240: This section applies to all facilities and is intended to assure that same levels of program services are provided to all persons residing in residential facilities regardless of the residents' ages. Facilities must receive approval from the Department to accept and maintain residents 18 through 21 years of age. Residents 18 years of age and older must be counted in the licensed capacity.

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

Interpretation of § 240: Approval may be granted and stipulated on the face of the license for facilities to accept and maintain residents 18 through 21 if the residents are placed by a local department of social services, are court ordered or are referred by a Family Assessment and Planning Team. In the case of direct parental placement with no public agency involvement, individual approval must be received prior to accepting residents 18 and over. Residential facilities for children are not permitted to take residents 22 years of age and older without an appropriate license to provide care and services to adults.

12VAC35-46-250. Health information.

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

Compliance Determination for § 250.A:
Review documentation to confirm presence of health information required by standards. Maximum confidentiality can best be maintained by keeping health records in a separate record.

B. Tuberculosis evaluation.

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

Interpretation § 250.B.1: Time of hire is defined as the actual date of reporting to work.

As many of the elements found on the screening form ask for personal information that is necessary to determine the risk for T.B. but is not necessary for the individual's employer to have, it is not required that the screening form itself be found in the employee's record. Instead, a Report of Tuberculosis Screening form indicating the results of the screening should be filed in the individual's record. A model of this form can be found in the appendix of this manual.

A nurse can conduct the risk assessment and can sign the forms, if the nurse has a written protocol and is working under the direction of a medical doctor.

A lay person can not sign the reporting form.

2. Each individual shall annually submit the results of a screening assessment, documenting that the individual is free of tuberculosis in a communicable form as evidenced by the

completion of a form containing, at a minimum, the elements of a current screening form published by the Virginia Department of Health.

Compliance Determination for § 250.B:

1. *Review medical records of personnel.*

2. *Verify that a Report of Tuberculosis Screening has been completed. This form can be found in the appendix of this manual.*

3. *Verify that the risk assessment used by the provider contains all the elements of the current screening form published by the Virginia Department of Health by reviewing a blank form used by the provider*

12VAC35-46-260. Physical or mental health of personnel.

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

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

Interpretation of § 260: This section provides a method for dealing with an employee's fitness for duty. Concern may focus on the staff member's mental or physical fitness for duty whenever he has experienced an illness, injury, or contagious disease that may reasonably be expected to expose residents or other staff to harm, including the risk of diminished ability to perform assigned duties.

The facility should ask the examining professional for a specific clearance for any employee to resume his duties whenever there is a question about the employee's state of fitness to care for residents.

Administrators are in the best position to observe the physical and mental health of staff. Thus, invoking the standards by administrators is more probable except in situations such as those where:

- *the reviewer feels the administrator should have taken action but did not; or*
- *the administrator is the subject of the concern.*

Through interviews with facility personnel and residents and the regulator's own observations, the regulator may determine that there is a need to request an evaluation by a physician or mental health professional.

If the Department requests an examination, the regulator shall confirm the request in writing enumerating the reasons for the request.

An individual whose physical or mental condition may jeopardize program participants may be assigned other duties within the facility.

Compliance Determination for § 260:

1. *Ask the director or his designee whether any reports of examination have been requested. Review the report(s) of examination for any individual(s) identified. If examination results indicate conditions which might jeopardize program participants, ask the administrator what action was taken. Verify the duties and work assignment(s) of any individual restricted from contact with residents and food served to residents. If the individual has resumed regularly assigned duties, verify the presence of a signed physician's or mental health professional's report certifying clearance.*

2. *Review staff records to note any relevant injuries or illnesses and, when reasonably appropriate, whether a clearance has been sought and obtained in a timely manner. Indications of prolonged absence by a staff member should prompt an inquiry, if the record does not clarify the circumstances of the absence and return. Serious or repeated disciplinary infractions in an employee's record might also prompt an inquiry if fitness for duty might be questioned based on the nature of these infractions.*

3. *Talk with the administrator or supervisory personnel to clarify that they understand this obligation and, when appropriate, exercise the responsibility to secure a clearance.*

4. *Unusual circumstances might come to the team's attention while conducting an on-site review. These should be clarified with the administrator if the team has a reasonable question about the physical or mental fitness of a particular staff member. Should this occur, the team should note the apparent disability or infirmity, inquire of the administrator whether this perception is shared, and ask whether a clearance has been sought or planned.*

12VAC35-46-270. Qualifications.

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

Interpretation of § 270: Some government personnel authorities have dictated that minimum entry level qualifications be stated in terms of the minimum knowledge, skills and abilities (KSA's).

The following definitions of KSA's may be helpful:

Knowledge: *Organized body of information of a factual or procedural nature. Knowledge may be either "knowledge about something" or "knowledge of how to do something." Examples: knowledge of personnel administration; knowledge of accounting techniques.*

Skill: *Current observable competence to perform a manual activity involving equipment. Example: skill in typing, using an electric typewriter.*

Ability: *Current power to perform a physical or mental function. Examples: ability to hear; ability to add, subtract, multiply, and divide; ability to analyze data.*

B. A person who assumes or is designated to assume the responsibilities of a position or any combination of positions described in these regulations after December 28, 2007, shall:

1. Meet the qualifications of the position or positions;

2. Fully comply with all applicable regulations for each function; and

3. Demonstrate a working knowledge of the policies and procedures that are applicable to his specific position or positions.

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

Compliance Determination for § 270:

1. Compare, regardless of actual job titles, the duties and qualifications of all persons who assume the responsibilities of a position or any combination of positions to assure compliance with §§ 340, 350, 360, 370 and 380.

2. Determine, when services are provided by contract, that the personnel providing the services are professionally qualified to provide the services. For example, a contractor who serves as the program director must meet the program director's qualification requirements. A contractor who provides medical, nursing or psychological services must meet the appropriate licensure requirements imposed by state law.

3. When any staff member is designated to fulfill more than one job function, the regulator must make a judgment as to whether the person (1) meets the

qualifications of each of the assigned job functions, and (2) can reasonably be expected to perform all of those assignments adequately.

4. Whenever the regulator has reservations about whether multiple job functions are being performed adequately, the regulator should proceed to interview staff, residents, and administrators concerning such matters as the proportion and actual time spent on each function assigned, the quality indicators for performance in each functional area, back-up methods available during peak overload periods, rationale for the multiple assignments, availability to deal with emergencies, etc.

12VAC35-46-280. Job descriptions.

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

1. Job title;

2. Duties and responsibilities of the incumbent;

3. Job title of the immediate supervisor; and

4. Minimum education, experience, knowledge, skills, and abilities required for entry-level performance of the job.

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

Compliance Determination for § 280:

1. Review written job descriptions and determine that each includes the required elements.

2. Interview staff to determine if they received a copy of the job description at the time of employment or assignment to the position.

12VAC35-46-290. Written personnel policies and procedures.

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

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

Compliance Determination for § 290:

1. Review the facility's employee selection policies and procedures and determine that they give assurance that persons employed will possess the education, experience, knowledge, skills and abilities specified in the job descriptions.

2. Review the specifications of education, experience, knowledge, skills and abilities as outlined in the job descriptions and review individual personnel records to assess whether employees meet the minimum requirements.

3. Interview staff in various position types, including relief workers, to determine their working knowledge of the personnel policies and whether they have access to a copy. "Working knowledge" means a general grasp of requirements, not that the employee can "recite" the policy or even necessarily relate the required action to the policy manual material.

12VAC35-46-300. Personnel records.

Intent of § 300: This information is critical for the preliminary evaluation and screening of potential employees. It is an essential tool in planning the employee's orientation and ongoing training and is an important tool in evaluating the employee's performance.

Written references or notations of oral references are to assess an individual's performance in his previous employment for evidence of his fitness to care for children. Since past job performance is one of the better predictors of future job performance, careful interviewing of past employers may produce invaluable information to aid in making final selection decisions.

Criminal background checks and checks for information regarding child abuse and neglect from the Department of Social Services' Central Registry are also valuable screening tools. Facilities should carefully assess the information they obtain from these checks but must remember these records are not infallible.

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

B. The records of each employee shall include:

1. A completed employment application form or other written material providing the individual's name, address, phone number, and social security number or other unique identifier;

2. Educational background and employment history;

3. Written references or notations of oral references;

4. Reports of required health examinations;

5. Annual performance evaluations;

6. Date of employment for each position held and separation;

7. Documentation of compliance with requirements of Virginia laws regarding child protective services and criminal history background investigations;

8. Documentation of educational degrees and of professional certification or licensure;

9. Documentation of all training required by these regulations and any other training received by individual staff; and

10. A current job description.

Interpretation of § 300.B.7: For all individuals that began providing services after July 1, 2007, the actual date that the individual began working with children should be documented in the personnel record. This may be the same date as the date the individual began his actual duties. For individuals who work alone with children, the date they began working alone with children should be documented. The criminal background check must be received by the provider before an individual can begin working with children. The child protective services check must be received by the provider before an individual can work alone with children.

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

Compliance Determination for § 300:

1. Review a selected sample of personnel files and verify that each employee, volunteer, and contractual service provider has a separate personnel record and that each required item is present in each record.

12VAC35-46-310. Staff development.

Intent of § 310: Training is necessary to provide all staff, volunteers and students with a working knowledge of the facility, policies, staff duties and responsibilities, a general philosophy of the facility and information regarding the population served.

The care of children requires considerable knowledge and skill. In addition to initial orientation, staff need to have their skills and knowledge reinforced and expanded so that they can maintain a high level of quality in the care of the residents. Staff also must be prepared to assume additional responsibilities when required to do so. Staff training includes work-site lectures, demonstrations, seminars, on-line learning, etc., as well as off-site activities such as college courses and professional meetings.

Through training, the individual should become knowledgeable of the goals of the facility and should acquire knowledge of expectations to protect, educate, and safeguard the residents. An additional objective of training is to help workers feel at ease and to gain confidence in themselves and in the organization.

A. Required initial training.

1. Within seven days following their begin date, each staff member responsible for supervision of children shall receive basic orientation to the facility's behavior intervention policies, procedures, and techniques regarding less restrictive interventions, timeout, and physical restraint.

Interpretation of § 310.A.1: Ideally, orientation should be provided to staff prior to assuming job responsibilities; however, this standard permits such training to be completed within seven days after starting job responsibilities. All staff who have ultimate responsibility for the supervision of residents must receive orientation on the items listed in the standard.

2. Within 14 days following an individual's begin date, and before an individual is alone supervising children, the provider shall conduct emergency preparedness and response training that shall include:

a. Alerting emergency personnel and sounding alarms;

b. Implementing evacuation procedures, including evacuation of residents with special needs (i.e., deaf, blind, nonambulatory);

c. Using, maintaining, and operating emergency equipment;

d. Accessing emergency information for residents including medical information; and

e. Utilizing community support services.

Interpretation of § 310.A.2: All staff, volunteers, contract workers, and student/interns who are on-site on a regular basis (more than twice a month) must participate in this training. In today's world, all types of emergencies take place. It is unknown who will be able to assist residents during an emergency. Therefore, individuals other than staff need to be trained. It may be that a volunteer is the only adult survivor in a situation and would need to help residents evacuate.

The facility may want to do a more in-depth training for staff who are more likely to be responsible for assisting residents in an emergency. The facility is not expected to train contract workers such as garbage collectors or repairmen that only come to the facility on a limited basis.

Community support services would include, but not be limited to, the local emergency management office, firemen, the police, emergency shelters, radio or television broadcasts, etc.

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

a. The objectives of the facility;

b. Practices of confidentiality;

c. The decision-making plan;

d. These regulations including the prohibited actions as outlined in this regulation; and

e. Other policies and procedures that are applicable to their positions, duties, and responsibilities.

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

Interpretation of § 310.A.4: The American Red Cross is considered the foremost authority on first aid and CPR training. However, these standards allow for evidence of certification in First Aid or CPR from other recognized authorities such as the American Heart Association.

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

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

Interpretation of § 310.A.6: Standard precautions was formerly called universal precautions.

7. Within 30 days following their begin date, all staff shall be trained on appropriate siting of children's residential facilities, and good neighbor policies and community relations.

Interpretation of § 310.A.1-7: An individual's begin date is the date they start being paid. For a volunteer or student/intern who is not being paid, it is the date the individual reports to the facility to provide services.

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

Interpretation of § 310.A.8: The currently approved medication administration training for staff of children's residential facilities is a 32 hour course.

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

Interpretation of § 310.A.9: When an improvement area is identified, only affected staff need to be trained.

B. Required annual retraining.

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

a. Alerting emergency personnel and sounding alarms;

b. Implementing evacuation procedures, including evacuation of residents with special needs (i.e., deaf, blind, nonambulatory);

c. Using, maintaining, and operating emergency equipment;

d. Accessing emergency information for residents including medical information; and

e. Utilizing community support services.

2. All staff who administer medication shall complete annual refresher medication training.

Interpretation of § 310.B.2: The medication refresher training should be based on facility needs. The training should concentrate on quality improvement, reducing medication errors, and eliminating licensure/certification violations related to medication. Refresher medication training does not need to be approved by the Board of Nursing.

3. All child care staff shall receive annual retraining on the provider's behavior supports and timeout policies and procedures.

Interpretation of § 310.B.3: All child care staff includes teachers and staff working with residents in a school program.

4. All staff working with residents shall receive annual retraining in child abuse and neglect, mandatory reporting, maintaining appropriate professional relationships, and interaction among staff and residents, and suicide prevention.

5. All staff shall receive annual retraining on the provider's policies and procedures regarding standard precautions.

Interpretation of § 310.B.5: Standard precautions was formerly called universal precautions.

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

Interpretation of § 310.C: The 15 hours of additional training should not include any of the training required in § 310.A and B unless the training offered is a more thorough or in-depth training that goes beyond what was originally provided. Suggested additional training topics include training on resident supervision, documentation, vehicle safety, child development, child and adolescent sexuality, gang issues, cultural competency, etc.

D. Providers shall develop and implement written policies and procedures to ensure that part-time staff receive training applicable to their positions.

Interpretation of § 310.D: Part time staff means anyone working less than 32 hours per week.

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

Compliance Determination for § 310:

1. *Review training records of staff, contractual service workers, volunteers, and students/interns who have begun their duties since the last compliance study, to confirm that they have received the required training.*

2. *Review the training schedule/calendar.*

3. *Interview a sample of staff to verify that the reported training and training content were implemented as planned.*

12VAC35-46-320. Staff supervision.

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

1. Type of supervision;

2. Frequency of supervision; and

3. How the supervision will be documented.

Interpretation of § 320: Supervision includes oversight responsibilities of the supervisor such as scheduling, directing, monitoring, and evaluating the individuals' work activities. It also includes individual development activities such as counseling, mentoring, consulting, instructing and demonstrating job related functions. Regular supervisory contact with individuals is essential in the establishment and maintenance of adequate job performance.

Compliance Determination for § 320:
Review with the administrator and staff, volunteers, contractual service workers and students/interns to confirm the scheduling and provision of regular supervision.

12VAC35-46-330. The Applicant.

As a condition of initial licensure and, if appropriate, license renewal, each applicant shall:

1. Provide documentation that they have been trained on appropriate siting of children's residential facilities, and good neighbor policies and community relations;

2. Be interviewed in person by the department to determine the qualifications of the owner or operator as set out in these regulations. Should the applicant not be qualified to perform the duties of the chief administrative officer, the applicant shall hire an individual with the qualifications, as set out in these regulations, to perform the duties of the chief administrative officer; and

Interpretation of § 330: Only qualified staff may make programmatic decisions regarding the residents and staff.

3. Provide evidence of having relevant prior experience.

12VAC35-46-340. The Chief Administrative Officer.

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

1. Responsibility for compliance with these regulations and other applicable regulations;

2. Responsibility for all personnel;

3. Responsibility for overseeing the facility operation in its entirety, including the approval of the design of the structured program of care and its implementation; and

4. Responsibility for the facility's financial integrity.

Interpretation of § 340.A: The above responsibilities should be found in the chief operating officer's job description.

B. A chief administrative officer appointed after December 28, 2007, shall have at least:

1. A master's degree in social work, psychology, counseling, nursing, or administration and a combination of two years professional experience working with children and in administration and supervision;

2. A baccalaureate degree in social work, psychology, counseling, nursing, or administration and three years of combined professional experience with children, and in administration and supervision; or

3. A baccalaureate degree and a combination of four years professional experience in a children's residential facility and in administration and supervision.

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

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

2. Documentation of prior relevant experience.

Interpretation of § 340: The Chief Administrative Officer may also be known by other titles such as executive director or director.

12VAC35-46-350. Program Director.

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

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

Interpretation of § 350.B: The above responsibilities should be found in the program director's job description.

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

D. A person appointed after December 28, 2007, to direct programs shall have at least:

1. A master's degree in social work, psychology, counseling, or nursing and a combination of two years professional experience with children in a children's residential facility and in administration or supervision;

2. A baccalaureate degree in social work, psychology, counseling, or nursing and a combination of three years professional experience with children in a children's residential facility and in administration or supervision;

3. A baccalaureate degree and a combination of four years of professional experience with children in a children's residential facility and in administration or supervision; or

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

E. For services providing brain injury services, a person appointed to direct programs shall have a master's degree in psychology, or be a nurse licensed in Virginia, a rehabilitation professional licensed in Virginia, or a Certified Brain Injury Specialist with at least one year of clinical experience working with individuals with brain injury. Program directors who hold a bachelor's degree in the field of institutional management, social work, education, or other allied discipline shall have a minimum of two years of experience working with individuals with brain injury.

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

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

2. Documentation of prior relevant experience.

Compliance Determination for § 350:

1. *Confirm that the facility has a qualified program director; check personnel records, staffing schedule and description.*

2. *If the incumbent program director was appointed after the effective date of these standards, review the incumbent's personnel file to assess whether he meets the above qualifications or, if appropriate, the KSA's listed in the job description.*

3. *Review job descriptions to verify that the program director is charged with responsibility for programs and services.*

4. *If the facility is licensed/certified to care for 13 or more residents, determine whether there is at least one full-time, qualified staff member fulfilling the duties of program director.*

12VAC35-46-360. Case manager.

A. Case managers shall have the responsibility for coordination of all services offered to each resident.

Compliance Determination for § 360:

Verify that each unit has a staff member assigned responsibility for the daily living program by reviewing job descriptions and staff assignments schedules and interviewing selected unit staff.

B. Case managers shall have:

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

2. A baccalaureate degree in social work or psychology with documented field work experience and shall be supervised by the program director or other staff employed by the provider with the same qualifications; or

3. A baccalaureate degree and three years of professional experience working with children.

Compliance Determination for § 360:

1. *Review the case manager's personnel record to determine if the case manager is qualified to provide case management.*

2. *Review residents' records and other documents to determine how and by whom case management is provided. Other documents such as schedules or calendars maintained for a resident or group of residents may indicate scheduling of time for counseling sessions, group sessions, meetings with community resource agencies,*

institutional staff, and parents/legal guardians of the residents. Monthly billing information may reflect time spent and services provided by consultants.

3. Ask residents who provides case management.

12VAC35-46-370. Child care supervisor.

A. Child care supervisors shall have responsibility for the:

1. Development of the daily living program within each child care unit; and

2. Orientation, training, and supervision of direct care workers.

B. Child care supervisors shall have:

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

2. A high school diploma or a General Education Development Certificate (G.E.D.) and a minimum of five years professional experience working with children with at least two years in a residential facility for children; or

3. A combination of education and experience working with children as approved by the department.

Interpretation of § 370: Child care supervisors with children's residential experience are preferred.

Compliance Determination for § 370:
Verify from job descriptions and staff records that a designated staff member is assigned responsibility for orientation, training and supervision of child care staff and from individual employment records that the individual meets the qualifications for the position.

12VAC35-46-380. Child care staff.

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

1. Overseeing physical care;

2. Development of acceptable habits and attitudes;

3. Management of resident behavior; and

4. Helping to meet the goals and objectives of any required individualized service plan.

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

1. Have a baccalaureate degree in human services;

2. Have an associates degree and three months experience working with children; or

3. Be a high school graduate or have a G.E.D. and have six months of experience working with children.

Interpretation of § 380: Working with children means professional experience such as a paid job or a student internship. Some volunteer work such as foster parenting may also be accepted.

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

Interpretation of § 380: The staff person working directly with the inexperienced child care worker must be within sight and sound of the child care worker.

D. Child care staff in brain injury residential services shall have two years experience working with children with disabilities.

E. An individual hired, promoted, demoted, or transferred to a child care worker's position after August 6, 2009, shall be at least 21 years old, except as provided in 12VAC35-46-270 A.

F. The provider shall not be dependent on temporary contract workers to provide resident care.

Compliance Determination for § 380:

1. *Verify that each unit has a staff member assigned responsibility for the daily living program by reviewing job descriptions and staff assignment schedules and interviewing selected unit staff.*

2. *Observe and interview to confirm that the child care staff assume the role described.*

3. *Interview staff to verify that child care staff participate in the implementation of required service plans.*

4. *Review personnel records of child care staff to determine that they meet the age, education and experience requirements. Or, if appropriate assess whether they meet the KSA's listed in the job description.*

12VAC35-46-390. Relief staff.

Qualified relief staff shall be employed as necessary to meet the needs of the programs and services offered and to maintain a structured program of care in accordance with these regulations.

Interpretation of § 390: "Qualified" relief staff are those individuals who meet the minimum job qualifications and personal health requirements of the job for which they provide relief. Relief staff must be provided with appropriate orientation, staff development, and supervision. Each relief staff member must be equipped with the skills and knowledge, including a knowledge of relevant facility policies and procedures, to enable him to maintain compliance with all standards that apply to the job he performs.

Compliance Determination for § 390:

1. *Review job descriptions, individual personnel records, training schedules and work schedules to determine whether relief staff are properly qualified and oriented to job duties.*

2. *Interview staff and supervisors or read the communication logs or other records of the facility to establish whether relief staff are readily available to cover scheduled and unscheduled staff absences.*

12VAC35-46-395. Additional requirements for residential facilities for individuals with brain injury.

The provider of brain injury services shall employ or contract with a neuropsychologist or licensed clinical psychologist specializing in brain injury to assist, as appropriate, with initial assessments, development of individualized service plans, crises, staff training, and service design.

12VAC35-46-400. Volunteers and student/interns.

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

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

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

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

Compliance Determination for § 400:

1. *Review written policies concerning the selection and use of volunteers or students receiving training.*

2. *Review job descriptions or work schedules to determine that volunteer and student responsibilities have been defined.*

3. Review the selection criteria and the description of duties developed for volunteers and students.

4. *Review the information available on volunteers (e.g. some facilities may use a regular employment application form while others may develop a separate tool to*

determine whether the facility has appropriate information on which to base assignments and whether that information is used appropriately in assigning volunteers and students/interns.

5. *Review supervision and staff development procedures to determine whether volunteers and students/interns are supervised by regular staff and receive appropriate training.*

12VAC35-46-410. Support functions.

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

Compliance Determination for § 410.A:
Interview staff and review staffing patterns to determine if any support services assignments to child care or other staff interfere with their primary duties in child care, etc.

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

Compliance Determination for § 410.B:
Review staffing patterns, observe, and interview to determine whether residents are ever solely responsible for service functions.

PART III RESIDENTIAL ENVIRONMENT

Intent: Residential environment standards are intended to safeguard the health of the children; assure the safety and comfort of their physical environment; provide for personal privacy; and assure the children of appropriate and necessary equipment, supplies and facilities to meet personal, recreational and educational needs. Many children placed away from home have experienced disruptions in their environment and pattern of living. These standards attempt to minimize the disruptions by normalizing the children's physical environment and activities as much as possible.

12VAC35-46-420. Buildings, inspections and building plans.

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

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

C. The facility shall document annually after the initial application that buildings and equipment are maintained in accordance with the Virginia Statewide Fire Prevention Code (13VAC5-51).

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

1. General sanitation;

2. The sewage disposal system;

3. The water supply; and

4. Food service operations.

Interpretation of § 420: Facilities are expected to maintain compliance with the Virginia Statewide Fire Prevention Code and sanitation regulations and to correct any deficiencies noted in these areas. When violations are cited, fire and health authorities are responsible for determining that deficiencies are corrected. The Department retains enforcement responsibility within the parameters of local and state fire and sanitation regulations. Whenever regulatory personnel observe conditions which are believed to be potentially hazardous, the sanitarian or the fire inspector should be contacted to request an additional inspection.

Facilities are responsible for obtaining fire and sanitation inspections annually and for submitting copies of the inspection reports to the licensing specialist.

Compliance Determination for § 420:
Reports from annual fire safety and sanitation inspections verify whether there is compliance or noncompliance. If noncompliance exists, the facility may be required to

submit an acceptable corrective action plan prior to issuance of a license. Compliance determination methodologies for each subsection are described below.

Fire Safety Inspections are conducted by the Office of the State Fire Marshal and by local fire officials. The local fire official conducts inspections in localities where the local governing body has adopted the Virginia Statewide Fire Prevention Code. The Office of the State Fire Marshal conducts inspections in localities where the local governing body has not adopted the Virginia Statewide Fire Prevention Code and in all state owned and operated facilities.

Sanitation inspections are conducted by local health department sanitarians. Local health department sanitarians conduct inspections in all other facilities. In addition to initial and annual inspections, a sanitation inspection is required prior to operation of a food service area which is constructed, remodeled, or renovated.

Compliance Determination for § 420:

§ 420.B – Fire Inspections	§420.C - Sanitation Inspections
Compliance is based on completion, by the appropriate fire official, of a report of fire inspection, AND whether a reinspection is planned by the fire official.	Compliance is based on completion, by the appropriate sanitarian, of the "Report of Sanitation Inspection" (Interdepartmental form #Ø32-Ø5-555), or its equivalent; whether the areas enumerated in the "Report of Sanitation Inspection" are approved by the health department, AND whether a reinspection is planned by the sanitarian.
Determine whether the facility has obtained annual inspections and submitted copies of the inspection reports.	Determine whether the facility has obtained annual inspections and submitted copies of the inspection reports.
Compliance is present if the current inspection report confirms that there are no known fire safety hazards which would prevent the facility from being licensed/certified as a children's residential facility, AND no reinspection is planned by the fire inspector, even when violations were cited. If violations were cited by the fire inspector and a reinspection has occurred, compliance determination is based upon the reinspection report.	Compliance is present if the current inspection report confirms that all applicable areas are approved, AND no reinspection is planned by the sanitarian, even when violations are cited. If violations were cited by the sanitarian and a reinspection has occurred, compliance determination is based upon the reinspection report. "Swimming pools" is the only area which may not be applicable.
Noncompliance is present if the facility has not submitted reports from annual inspections. Noncompliance also exists if the current inspection report shows violations, a reinspection is planned by the fire inspector, and no confirmation has been provided to the Department that violations have been corrected.	Noncompliance is present if the facility has not submitted reports from annual inspections. Noncompliance also exists if the current inspection report shows one or more areas are not approved, a reinspection is planned by the sanitarian, and no confirmation has been provided to the Department that violations have been corrected.

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

Compliance Determination for § 420.E:

1. Observe the buildings, their arrangement on the grounds, the arrangement of rooms within the buildings, and the manner in which the structures are utilized in relation to the programs and services provided.

2. Evaluate the buildings in relation to the characteristics and special needs of the population.

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

Interpretation of § 420.F: Other appropriate regulatory authorities may include local building officials, local fire departments, local or State health departments; and the Office of the State Fire Marshall.

Compliance Determination for § 420.F:
If construction or alterations to existing property are proposed or in progress, review reports or determine whether the administrator has requested approval.

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

12VAC35-46-430. Heating systems, ventilation, and cooling systems.

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

B. Natural or mechanical ventilation to the outside shall be provided in all rooms used by residents.

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

12VAC35-46-440. Lighting.

A. Artificial lighting shall be by electricity.

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

Compliance Determination for § 440:
1. Note the placement of light fixtures to determine if all areas are safely lighted.

2. Determine whether the fixtures are working properly and whether light bulbs are burned out.

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

Intent of § 440.C: The intent of this requirement is to provide lighted paths for residents to walk without harm at night.

Interpretation of § 440.C: Continuous lighting may be provided in several ways. It may be night lights, lamps or fixtures in the halls or, in some instances, light from an adjoining indoor area or room may be deemed to meet the requirement provided it burns continuously.

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

Interpretation of § 440.D: Other types of lighting, such as propane or kerosene lamps or reserve lighting, are not acceptable.

Compliance Determination for § 440.D:

1. Count the number of flashlights or battery lanterns and compare the total number with the maximum number of staff on duty between dusk and dawn.

2. Determine where and how the flashlights or lanterns are stored to determine if they are easily accessible to staff in the event of an emergency.

3. Switch on several of the flashlights or lanterns to determine if they are in good working condition.

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

Compliance Determination for § 440.E:

1. Determine whether there are light fixtures for outside entrances and parking areas and switch on several of the lights to determine if they work properly.

2. Evaluate the adequacy of the lighting to insure that the number and location of the lights is adequate for protection.

12VAC35-46-450. Plumbing.

A. Plumbing shall be maintained in good operational condition.

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

Compliance Determination for §§ 450.A and B:

1. *Turn on several faucets to determine if they work properly.*

2. *Observe water drainage from washbowls, tubs and showers to determine whether drains are clogged.*

3. *Flush several toilets.*

4. *Determine whether there are leaky faucets or any other leakage of water, such as the bases of the toilets, which might affect operation.*

5. *Determine whether there is sufficient water pressure in the faucets and toilets.*

6. *Turn on several faucets to determine if both hot and cold water are available and if the water pressure is adequate.*

7. *Ask the administrator how he assures that an adequate supply of both hot and cold water is available at all times.*

C. Precautions shall be taken to prevent scalding from running water. Water temperatures shall be maintained between 100°F and 120°F.

Compliance Determination for § 450.C:

1. *Ask the administrator what precautions are used to prevent scalding. Use a thermometer to determine the temperature of the hot water.*

2. *Observe these precautions.*

12VAC35-46-460. Toilet facilities.

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

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

Intent of § 460. A and B: The intent of this requirement is to assure that children shall not have to go outside the living unit in order to use bathroom facilities. The intent of requiring a tub somewhere in the facility accessible to children is to provide an appropriate bathing alternative for a child who has (1) a physical handicap, (2) a temporary physical incapacity precluding standing, (3) a wound or skin condition requiring soaking or immersion, (4) a need for fever reduction (5) a personal preference, or (6) a need for a tub in other situations where a shower is not appropriate.

Interpretation of § 460.A: A living unit is defined as space in which a group of children reside. Such space contains sleeping areas, bath and toilet facilities, and a living room or its equivalent

for use by the children. Depending upon its design, a building may contain only one living unit or several separate living units.

C. There shall be at least one toilet, one hand basin, and one shower or tub for every eight residents for facilities licensed before July 1, 1981.

D. There shall be one toilet, one hand basin, and one shower or tub for every four residents in any building constructed or structurally modified after July 1, 1981, except secure custody facilities. Facilities licensed after December 28, 2007, shall comply with the one-to-four ratio.

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

Compliance Determination for § 460:

1. *Count the toilets, hand basins and showers or tubs available in the facility for the residents' use, note the license capacity and divide the license capacity by the number of toilets, showers or tubs.*

2. *Note whether a separate bathroom is provided for staff on duty less than twenty-four (24) hours a day. If a separate bathroom is not provided, determine the maximum number of staff members on duty at any one time and add that number to the license capacity.*

3. *If a separate bathroom for staff is not provided divide the total number of staff members and the license capacity by the number of toilets and washbowls.*

12VAC35-46-470. Personal necessities.

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

Interpretation of § 470.A: For treatment purposes, the facility may require a resident to buy his own necessities from his earnings or allowance. If a resident fails to do so, the facility must make the items available or be deemed in noncompliance with this standard.

Personal necessities include but are not limited to: soap, toilet paper, toothpaste, individual toothbrushes, individual combs, shaving equipment, shampoo, deodorant, and feminine hygiene articles.

Compliance Determination for § 470.A:

1. *Observe the inventory of personal necessities to see if it is adequate for the number of residents. Determine whether the supply includes all essential personal items which might be needed by the age and type of resident.*

2. Ask staff how personal supplies are made available to the residents. Ask the residents what personal necessities are available and how they are acquired.

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

Interpretation of § 470.B: This does not preclude programs from requiring that residents do their own laundry.

Compliance Determination for § 470.B:

1. Observe the storage area where washcloths and towels are kept. Note whether *there are enough clean washcloths and towels so that residents can be given fresh ones once a week, leaving an adequate supply available for emergencies.*

2. Observe the washcloths and towels used by the residents on the day of the visit. Note if individual washcloths and towels are used and if they appear to be relatively clean.

3. Ask staff how they ensure compliance with this standard. If a linen service is used, ask how often clean washcloths and towels are provided, how large an order is placed and how the facility deals with emergencies when additional supplies are needed. If the laundry is done on the premises, ask how frequently washcloths and towels are laundered. If the residents do their own laundry, ask what steps are taken to ensure the use of clean items. Ask the method of determining whether a resident needs a clean washcloth and towel more often than once each week and how these are made available, if needed.

C. When residents are incontinent or not toilet trained:

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

2. A covered diaper pail, or its equivalent, with leakproof disposable liners shall be used to dispose of diapers. If both cloth and disposable diapers are used, there shall be a diaper pail for each.

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

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

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

Compliance Determination for § 470.C:

1. *Note the provisions that are made for diapering and caring for infants or for similar care for older children who are not toilet trained.*

2. *Ask the child care staff how they ensure that the changing surface, adapter seats and toilet chairs are cleaned after each use.*

3. *Ask staff and observe, if possible, whether they thoroughly wash their hands with warm soapy water immediately after assisting with toileting.*

4. *Ask staff how privacy, confidentiality and dignity are maintained for residents.*

12VAC35-46-480. Sleeping areas.

Interpretation of § 480: For the purpose of these standards, a sleeping area is a space designated for that purpose, having walls that are not necessarily of ceiling height but which are capable of supporting a door.

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

B. No more than four children shall share a bedroom or sleeping area.

Intent of § 480: The intent of this standard is to make the sleeping area conducive to rest and relieve crowding. Providers are encouraged to house less than four children in a bedroom.

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

Compliance Determination for § 480.C:
Determine if any children with these needs are placed at the facility. Observe where these children are assigned sleeping quarters and determine that they have a planned means of effective egress

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

Interpretation of § 480.D: Studies have shown that cold germs, viruses and similar contagious diseases are dispelled to a distance of slightly less than three feet. Placement of beds a minimum of three feet apart assists in reducing the spread of disease and the likelihood of children being accidentally injured by rowdy play in an overcrowded area. Additional space is needed to allow adequate room when there are double-decker beds. It is a violation of this section if the specified distances are not maintained.

E. Sleeping quarters in facilities established, constructed, or structurally modified after July 1, 1981, shall have:

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

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

3. Ceilings with a primary height of at least 7-1/2 feet exclusive of protrusions, duct work, or dormers.

Intent of § 480.E: Research has indicated that crowding may be stressful for children. The spatial needs of children depend upon the child's individual make-up and the programs and services provided. This standard sets forth what is felt to be minimum spatial requirements for adequate child care.

Compliance Determination for § 480.E:

1. Determine the length, width, height of the ceiling, and area.

2. Observe that ceilings are at least 7½ feet in height.

3. To determine the area of the room multiply the length of the room by the width. Subtract the area of any built-in closets, portable wardrobes, or protrusions from the area of the room. The area should equal or exceed:

80 square feet if the room houses one child
120 square feet for two children
180 square feet for three children
240 square feet for four children

F. Each child shall have a separate, clean, comfortable bed equipped with a clean mattress, clean pillow, clean blankets, clean bed linens, and, if needed, a clean waterproof mattress cover.

Compliance Determination for § 480.F:

1. Compare the total number of beds with the total number of children and confirm space is allotted for each child to have a separate bed with a mattress, pillow, blanket(s), sheets and a pillow case.

2. Note whether waterproof mattress covers are available and ask the administrator if they are placed on the beds of children who need them.

3. Observe the beds for lumps or sagging. Sit on several beds and press down on the mattresses to determine if they are comfortable.

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

Compliance Determination for § 480.G:

1. *Observe the linens on the beds and note whether they appear to be relatively clean.*

2. *Ask the administrator how he ensures compliance with the standard requiring bed linens be changed at least every seven days, or more often, if needed.*

3. *If a linen service is used, ask how often clean linens are provided, how large an order is placed and how the facility deals with emergencies when additional linens are needed. If laundry is done on the premises, ask how frequently bed linens are laundered.*

4. *Ask the method of determining whether a child needs his bed linens changed more often than every seven days and how the linens are made available if needed.*

5. *Observe the storage area where bed linens are kept. Note whether there is a supply available for emergencies.*

6. *Ask the children how often bed linens are changed.*

H. Mattresses shall be fire retardant as evidenced by documentation from the manufacturer except in buildings equipped with an automated sprinkler system as required by the Virginia Uniform Statewide Building Code (13VAC5-63).

Interpretation of § 480.H: The Standard for the Flammability of Mattresses (and Mattress Pads) (originally DOC-FF-4-72) was issued by the Consumer Product Safety Commission under the provisions of the Flammable Fabrics Act (FFA 15 U/S/C. 1191 et seq.) and has been in effect since June 22, 1973. The original regulation required that all mattresses and pillows manufactured on or after June 22, 1973, be chemically treated to a federal standard of fire retardancy. The regulation exempted those which were manufactured for use under a physician's written prescription due to the medical condition of the user.

The Standard for the Flammability of Mattresses (and Mattress Pads) (now 16 CRF 1632) was amended with an effective date of April 10, 1985, by the Consumer Product Safety Commission. Among other revisions, the amended regulation removed the requirement for fire retardancy of pillows.

Since July 1, 1981, licensure/certification requirements have required documentation certifying the fire retardancy of mattresses for all placed in service on or after July 1, 1981.

The Consumer Product Safety Commission's new standard, 16 CRF 1633 became effective July 2007; mattress sets are required to meet the federal safety standard for open-flame fire resistance. The mattress label must show that the mattress meets federal mattress flammability requirements.

These standards do not require a statement that the mattress is fire retardant. Facilities are responsible for obtaining, maintaining, and providing documentation that mattresses are fire retardant.

Other than buildings with automated sprinkler systems, the only exception to the use of a fire retardant mattress is when a physician has prescribed the use of a non-fire retardant mattress for a resident. The facility must maintain a copy of the prescription and document the location of the mattress in the resident's record stating that it is NOT fire retardant. A non-fire retardant mattress may be used only by the resident for whom prescribed and must be removed from service upon the resident's discharge.

Compliance Determination for § 480.H :

1. *Review written documentation from the manufacturer that mattresses meet federal fire retardancy requirements; or*

2. *Observe manufacturers labels attached to the mattresses and which are clearly labeled "fire retardant," "fire resistant," "meets DOC-FF-4-72," "meets 16 CRF 1632," "meets Federal Flammability Standards," or a similar statement" or*

3. *Review written documentation from an independent testing laboratory that mattresses meet federal fire retardancy requirements or are deemed fire resistant.*

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

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

Interpretation of § 480.J: Drawer and closet space must be accessible to the sleeping area for storage of daily use items such as toothbrush, deodorant, and a change of clothing but there is no requirement that it be in the resident's room. Any kind of space, including portable wardrobes and curtained-off areas, is acceptable as an equivalent to closet space if there is room for the resident to hang his clothes and there is adequate floor space.

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

Interpretation of § 480.K: This standard does not preclude residents from decorating their rooms with vibrant colors, posters, etc. Its main purpose is to control noise, light and other potentially disrupting factors in the sleeping area.

12VAC35-46-490. Smoking prohibition.

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

Intent of § 490: This standard is intended to protect the facility and residents from accidental fires and to ensure the comfort of non-smoking residents and those who may suffer from allergies or other conditions which might be aggravated by smoke.

The Code of Virginia (§ 18.2-371.2) prohibits the purchase or possession of tobacco products by minors. This Code section also prohibits persons from selling to, distributing to, purchasing for, or knowingly permitting the purchase by any minor, any tobacco products.

Interpretation of § 490: The phrase "any person" is intended to include staff and visitors, as well as residents.

Facilities are allowed to designate a staff smoking area away from resident living and program areas.

Compliance Determination for § 490:

1. Ask the administrator how he ensures compliance with this standard.

2. Note whether there are ashtrays, cigarette burns or other indications that residents, staff, or visitors smoke in living areas and in areas where residents participate in programs.

12VAC35-46-500. Residents' privacy.

Intent of § 500: An effective means of achieving privacy in bathrooms, dressing areas and bedrooms used by residents is required at all facilities. Privacy may be achieved by a variety of means including shades, blinds, curtains, shutters, frosted or opaque glass or plastic, or the design of the window itself.

A. When bathrooms are not designated for individual use:

1. Each toilet shall be enclosed for privacy; and

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

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

C. Every sleeping area shall have a door that may be closed for privacy or quiet and this door shall be readily opened in case of fire or other emergency.

Interpretation of § 500: Stalls, curtains or other coverings around toilets and tubs or showers are appropriate enclosures. It is not required that the enclosures extend from floor to ceiling; they must, however, ensure visual privacy.

The "windows" referred to here are normally those in the external wall of a room used to permit sunlight in and the occupant to view the outside. Since the objective is privacy, "window" also includes the improbable circumstance where there is a window in the wall separating the bedroom, dressing area or bathroom from another room. "Window" also includes a window in a bedroom door. DBHDS facilities may have a policy to keep such a window unobstructed for security purposes. In such cases, the facility should protect the privacy of the residents as much as possible consistent with legitimate security considerations.

Compliance Determination for § 500:

1. *Observe whether the windows or window coverings in all of the bathrooms residents use provide for privacy.*

2. *Observe whether the windows or window coverings in sleeping and dressing areas residents use provide for privacy.*

3. *Observe if every sleeping area has a door that may be closed for privacy or quiet and check to see if it may be opened easily in case of fire or other emergency.*

4. *Note that doors to sleeping areas are not readily operable by residents in secure detention and possibly other special settings. Staff should be interviewed to check that fire and other emergency release procedures exist.*

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

Interpretation of § 500: An infant means any child up to the age of four. Staff supervising children who are taking care of personal needs must be of the same gender as the children. In the event it is necessary for staff to supervise children of the opposite gender, the facility shall assure the children's privacy.

Medical personnel are exempted from the requirement only while conducting medical procedures. In addition, staff providing care to infants are exempted.
It is necessary to document, in the child's record, occurrences when it is necessary for staff to provide assistance to children of the opposite gender whose physical or mental disabilities dictate the need for assistance.

Compliance Determination for § 500:

1. Review staff schedules and logs to determine if members of the opposite gender were assigned bathroom duty and whether any same gender child care staff were on duty when tasks were performed.

2. Interview staff and residents to determine the actual practice.

3. Review the records of children whose physical or mental disabilities dictated the need for assistance.

4. Observe the deployment of staff when children are bathing, dressing, or conducting toileting activities to verify that the residents' rights to privacy are being observed.

12VAC35-46-510. Audio and visual recordings.

Each provider shall have written policies and procedures regarding the photographing and audio or audio-video recordings of residents approved by the Office of Human Rights that shall ensure and provide that:

1. The written consent of the resident or the resident's legal guardian shall be obtained before the resident is photographed or recorded for research or provider publicity purposes.

2. No photographing or recording by provider staff shall take place without the resident or the resident's family or legal guardian being informed.

3. All photographs and recordings shall be used in a manner that respects the dignity and confidentiality of the resident.

12VAC35-46-520. Living rooms and indoor recreation space.

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

Compliance Determination for § 520.A:
Observe each living room area and evaluate whether its furniture, furnishings, decorations, bric-a-brac and other materials are appropriate to the age and types of residents, create a home-like atmosphere, and are conducive to relaxation and entertainment.

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

C. Facilities licensed to care for 13 or more residents shall have indoor recreation space distinct from the living room. Recreation space is not required in every living unit.

Compliance Determination for § 520.C:
If the facility cares for 13 or more residents, note whether there is at least one indoor recreational area in the facility distinct from the living room. This area may be in another building.

12VAC35-46-530. Study space.

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

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

Compliance Determination for § 530:

1. *Note the number of school-age residents and evaluate whether the assigned space is adequate for study use for that number of residents.*

2. *Ask staff what provisions are made to assure quiet in the study area during times when residents are studying.*

12VAC35-46-540. Kitchen and dining areas.

Interpretation for § 540: In facilities with multiple kitchens, all standards relating to the kitchen are to be applied to all kitchens serving residents. This includes the central kitchen as well as any other kitchens from which food is served directly to residents. It does not include any kitchen which is part of a commercial or semi-commercial operation serving food that may be purchased by the public, including the residents.

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

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

Interpretation of § 540.B: The capacity of the facility, the needs of the residents, and whether or not the food service is catered are factors to be considered in determining the adequacy of the kitchen facilities and equipment. There should be suitable equipment and facilities for storing food, preparing meals and cleaning up after meals.

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

Compliance Determination for § 540:

1. Observe the dining area(s). Note whether it is equipped with sturdy and size appropriate tables and benches or chairs. If not, ask staff what arrangements are made for providing such equipment at meal times.

2. Note whether walk-in refrigerators, freezers, and other air-tight enclosures are equipped to permit an emergency exit from inside. If emergency exit equipment is not immediately obvious, ask staff how an emergency exit is assured.

12VAC35-46-550. Laundry areas.

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

Compliance Determination for § 550:

1. If laundry is done at the facility, ask to see the equipment and area(s) utilized for these services.

2. Evaluate whether the space and equipment are appropriate and sufficient in relation to the capacity of the facility and the needs of the residents.

3. Note whether the equipment appears to be in good repair by turning equipment on and checking to see if the machines work.

12VAC35-46-560. Storage.

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

Compliance Determination for § 560:

1. Ask staff what provisions are made for storage.

2. Observe the assigned storage areas. Note that first aid equipment should be stored so as to be readily accessible for minor injuries and medical emergencies. See Standard § 840.K for additional information on first aid kits.

3. Blocking emergency exits is prohibited.

12VAC35-46-570. Staff quarters.

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

Interpretation of § 570: The staff bedroom must be located within the living unit but must be separate from the areas used by the residents and must have a door or other means of assuring privacy.

If more than one staff member is on 24 hour duty in the living unit, it is not required that there be a separate bedroom for each staff member. The same bedroom may be available to different staff members when they are on duty.

The bathroom provided for staff and their families must be located within the living unit but must be separate from the areas used by the residents and must have a door or other means of assuring privacy.

A private bathroom is required for staff when there are more than four persons in the living unit, including residents, staff, and family of staff, and the staff person is on duty for 24 hours.

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

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

Interpretation of § 570.C: This includes off duty, as well as, on duty staff, at or away from the facility.

Compliance Determination for § 560:

1. *Note if there are any indications that staff or members of their families share bedrooms with residents.*

2. *Determine the number of residents residing in the living unit. If more than 13 note if a private living area is provided for child care staff required to be on the unit for more than 24 hours.*

3. *Note if a bed is available for each staff member on duty during the night hours unless the staff member is required to remain awake.*

12VAC35-46-580. Office space.

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

Interpretation of §580: Office space should be separate from living space.

Compliance Determination for § 580:

1. Ask the administrator what provisions are made for administrative activities, including confidential conversations and storage of records and materials.

2. Observe the space for administrative activities.

12VAC35-46-590. Building and grounds.

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

Interpretation of §590.A: Hazardous areas are any areas in the building or on the grounds which might be a source of danger to children, staff or visitors. Safeguards are means of preventing or minimizing danger, particularly in areas where the hazards cannot be eliminated.

Compliance Determination for § 590.A:

1. Observe whether provision is made for water run-off or drainage in areas on the grounds where water might collect, such as low-lying areas and flat nonabsorbent surfaces.

2. Note whether there are any soggy or marshy areas on the grounds or any areas of standing water caused by poor drainage.

3. Note whether there is trash or litter on the grounds and if the grounds are maintained.

4. Notice whether roads, pavements and parking lots are free of hazards, such as pot-holes, loose paving, mud, debris, and obstacles. Ask the administrator how roads, pavements and parking lots are cleared of snow and ice when they occur and how safety is assured.

5. Notice whether roads and parking lots are properly signposted for safety.

6. Determine if there are any potentially hazardous areas in the buildings or on the grounds.

7. Note whether safeguards such as fences, railings, lighting, warning signs and other means have been provided for all hazardous areas.

8. Review the inspection reports submitted by the local sanitarian, local building official, the local fire department or the State Fire Marshal. Note whether any of these reports indicate the accumulation of rubbish.

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

Interpretation of § 590.B: *Good repair means that buildings are sound inside and out, are free of leakage, electrical and mechanical malfunctions, falling plaster and other unstable conditions; that all fixtures are safe and properly functioning; and that paint and other such work is in good condition.*

There is a fine line between imposing personal standards of cleanliness on a facility and determining if it is in compliance. The criterion for judgment is reasonableness.

Compliance Determination for § 590.B:

1. *Review the inspection reports submitted by the local sanitarian, the local building official, the local fire department or the State Fire Marshal. Note whether any of these reports indicates that repairs are necessary.*

2. *Observe the interior and exterior of buildings. Evaluate whether they are reasonably clean and free of rubbish. Evaluate required locks and mechanical devices, when applicable.*

3. *Observe the furnishings, furniture, and all indoor and outdoor equipment to determine if they appear to be clean and in good repair.*

4. *Sit on several chairs, beds and sofas to see if they are free of broken springs and in good repair. Test several pieces of equipment, such as playground and recreation equipment, televisions and lamps, to see if they are working properly.*

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

Compliance Determination for § 590.C:
Evaluate whether the outdoor recreation space is adequate and appropriately equipped in relation to the ages, developmental levels, interests and needs of the residents. Recreation space does not necessarily have to be on the premises. A nearby park or playground may suffice.

12VAC35-46-600. Equipment and furnishings.

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

Interpretation of § 600.A: *Furnishings include rugs, decorations, lamps, and similar items as well as furniture. Equipment includes interior and exterior items.*

Compliance Determination for 600.A:
Observe the furnishings and equipment and assess whether they are relatively easy to clean and safe/appropriate for the ages and number of residents.

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

Interpretation of § 600.B: This standard assures that help can be summoned quickly in an emergency. If the facility has a switchboard during office hours, the telephones referred to in this standard must be operable when the switchboard closes down.

Compliance Determination for § 600.B:

1. *Observe that there is at least one operable non-pay telephone in each building where children sleep or participate in programs.*

2. *Ask staff whether the above telephones are continuously operable 24 hours a day.*

3. *Observe the location of each of these telephones. Note if they are accessible to staff. If any of the telephones are located in an office, ask staff if the office is locked at night. If so, ask if all night staff have easy access to a key to the office.*

12VAC35-46-610. Housekeeping and maintenance.

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

Compliance Determination of § 610:

1. *Review the report from the health department. Note any comments regarding ventilation of the kitchen area.*

2. *Note the quality of the air in all buildings. Note if there are unpleasant odors or if any rooms seem to be stuffy.*

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

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

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

Intent of § 610.D: The intent of this standard is to assure that bed, bath, table and kitchen linens are sanitized after being used by one resident prior to being used by another resident so as to prevent the transmission of bacteria or parasites from one resident to another.

Interpretation of § 610.D: According to health department officials, any product containing chlorine bleach (laundry bleach with an active ingredient of 5.25% sodium hypochlorite) is a sanitizing agent. If a commercial or state operated laundry is used, the facility shall be deemed to be in compliance with this standard.

Compliance Determination for § 610.D:

1. *Ask staff whether bed, bath, table and kitchen linens are laundered on the premises or if a linen service is used.*

2. *If laundry is done on the premises, ask appropriate staff whether a sanitizing agent is used in the laundering of the above items.*

3. *Ask residents who do laundry if they use a sanitizing agent for items shared with others.*

12VAC35-46-620. Farm and domestic animals.

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

Interpretation of § 620: "Other animals" include wildlife, farm animals and large domesticated animals which are not normally expected to share lodging or shelter with humans.

This standard refers primarily to any natural water supply on the premises of the facility such as, but not limited to, wells or springs. An inspection and report on the environmental health conditions at the facility, including the safety of the water supply, will be requested with the initial application and at least annually thereafter.

Compliance Determination for § 620:

1. *Determine whether horses or other animals are maintained on the premises of the facility.*

2. *Evaluate the location(s) of quarters for horses and other animals to determine whether these quarters are reasonably separated from areas where residents and staff sleep, live, eat and prepare food.*

3. *Review the report from health authorities and note any violations cited in regard to the safety of the water supply due to stables and corrals.*

4. *If violations are cited, the state or local health authorities are responsible for determining that deficiencies have been corrected.*

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

Interpretation of § 620.B: The requirement in this standard applies to all warm-blooded pets owned or under the supervision of a resident, including wildlife which has been domesticated or is under observation. State law requires that dogs and cats be vaccinated.

Compliance Determination for § 620.B:

1. *View dog licenses and documentation of rabies vaccination of all dogs and cats in accordance with state law.*

2. *Ask staff if a local ordinance is applicable, if so review written documentation regarding the vaccination of all other warm-blooded pets to be sure that all such pets owned or under the supervision of a resident have been vaccinated, that the vaccinations are current, and there is a written record of the type and date of each.*

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

Compliance Determination for § 620.C:

1. *Observe the premises for the presence of any apparently stray domestic animals.*

2. *Talk with staff to determine how the premises are kept free of stray domestic animals.*

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

Compliance Determination for § 620.D:

1. *Observe any dogs, cats and other small pets and their quarters to determine if both the pets and their quarters appear to be reasonably clean.*

2. *Talk with staff to determine how compliance with this standard is assured.*

PART IV PROGRAMS AND SERVICES

12VAC35-46-625. Minimum service requirements.

A. The provider shall have and implement written policies and procedures for the on-site provision of a structured program of care or treatment of residents with mental illness, mental retardation, substance abuse, or brain injury. The provision, intensity, and frequency of mental health, mental retardation, substance abuse, or brain injury interventions shall be based on the assessed needs of the resident. These interventions, applicable to the population served, shall include, but are not limited to:

1. Individual counseling;

2. Group counseling;

3. Training in decision making, family and interpersonal skills, problem solving, self-care, social, and independent living skills;

4. Training in functional skills;

5. Assistance with activities of daily living (ADL's);

6. Social skills training in therapeutic recreational activities, e.g., anger management, leisure skills education and development, and community integration;

7. Providing positive behavior supports;

8. Physical, occupational, and/or speech therapy;

9. Substance abuse education and counseling; and

10. Neurobehavioral services for individuals with brain injury.

B. Each provider shall have formal arrangements for the evaluation, assessment, and treatment of the mental health or brain injury needs of the resident.

C. The provider shall have and implement written policies and procedures that address the provision of:

1. Psychiatric care;

2. Family therapy; and

3. Staffing appropriate to the needs and behaviors of the residents served.

12VAC35-46-630. Acceptance of children.

Children shall be accepted only by court order or by written placement agreement with legal guardians.

Interpretation of § 620: *"Accept" and "admit" are not synonymous. A child seeking self admission may be admitted, as permitted by statute, in accord with the facility's criteria for admission (see § 640) prior to the facility obtaining a court order or written placement agreement. A child may be accepted only when the facility has obtained a court order or written placement agreement. The facility must promptly implement its policies and procedures to obtain a court order or written placement agreement (see § 720).*

12VAC35-46-640. Admission procedures.

Intent of § 640: *These sections require that there be an admissions process that assures the facility admits only those children whose needs and characteristics are compatible with the facility's programs and services. The services provided by a facility must be compatible with the needs of the children it serves.*

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

1. A description of the population to be served;

2. A description of the types of services offered;

3. Intake and admission procedures;

4. Exclusion criteria to define those behaviors or problems that the facility does not have the staff with experience or training to manage; and

5. Description of how educational services will be provided to the population being served.

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

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

Interpretation of § 640.C: *Admission and discharge procedures in some facilities (e.g. training centers operated by the Department require admission and discharge for each stay at the facility. Implementation of the facility's procedures would also comply with this requirement.*

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

Interpretation of § 640.D: Expertise is defined as the knowledge, skills, education, training, experience, or professional licensure/certification needed to perform assigned duties. Documentation of expertise should be filed in the individual's personnel record.

Compliance Determination for § 640:

1. *Review a copy of the written criteria for admission.*
2. *Verify that the written criteria include all of the required elements.*
3. *Ask staff how the written criteria are made accessible.*
4. *Review screening procedures to verify the needs of children admitted.*
5. *Ask staff to describe the services provided by the facility.*
6. *Ask staff what verbal or written arrangements the facility has established with agencies, professionals or organizations in the community to provide services to children.*
7. *Ask staff and residents, or review residents' records, to verify that services in the community are occurring.*
8. *Review information in residents' records (including reports of serious incidents, accidents or injury) and verify the facility has admitted only children whose needs are compatible with the programs and services provided through the facility.*
9. *Review personnel records to ensure that staff have the expertise to perform assigned duties. See also § 270 and § 300.*

12VAC35-46-650. Least restrictive programming.

Each resident shall be placed in the least restrictive level of programming appropriate to individual functioning and available services.

12VAC35-46-660. Maintenance of residents' records.

Intent of § 660: These requirements provide a means of keeping important information on each resident in a manner that protects confidentiality and permits easy access when needed. A resident's record is a vital tool used to determine the needs of the resident and to assess the resident's progress.

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

Interpretation § 660.A: A separate case record means that the information for an individual resident must be kept separately from information on all other residents. Sections of individual records such as allegations of child abuse, medical and educational information, etc. may be retained in separate locations on the premises provided they are kept individually, confidentiality is protected and the location of the information is noted in the master record.

Compliance Determination for § 660.A:
It may be advisable to compare the number of records with the number of residents enrolled or to compare the names on the records with a list of names of residents currently enrolled.

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

Intent of § 660.B-E: These standards are designed to ensure that the privacy of the residents is protected, and that unauthorized people are not able to read the records. Records of the residents may well contain sensitive medical, psychiatric, psychological, and personal information which might be detrimental if released to people who are not legally authorized to obtain this information. There may be instances in which certain information should not be released to the resident or to his family.

C. The provider shall develop and implement written policies and procedures for management of all records, written and automated, that shall describe confidentiality, accessibility, security, and retention of records pertaining to residents, including:

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

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

a. How records are protected from unauthorized access;

b. How records are protected from unauthorized Internet access;

c. How records are protected from loss;

d. How records are protected from unauthorized alteration; and

e. How records are backed up;

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

4. Designation of person responsible for records management; and

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

Compliance Determination for § 660.C:

1. Review written policies and procedures on confidentiality.

2. Assess if the facility maintains and safeguards resident information in a manner which conforms to policy.

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

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

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

Compliance Determination for § 660.E.1:
Observe the file cabinets or compartments in which records are stored to determine whether they are made of steel or other fire-resistant metal and are completely enclosed.

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

Interpretation of § 660.E.2: If records for current residents are used in a room with staff on duty, there shall be a means for the records to be locked when staff leave the room.

Compliance Determination for § 660.E:

1. Observe the areas in which records are kept to determine whether the records might be accessible to people other than authorized staff.

2. Talk with staff to determine how they ensure that only authorized staff have access to the records.

3. Observe the locks on the file cabinets or compartments in which records are stored.

4. Determine how records are secured when staff leave records without returning them to the file cabinet or other metal compartment.

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

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

Compliance Determination for § 660.F and G:

1. *Review records of residents who have been discharged. Review the dates of discharge of a sample of the records to verify the records are kept for a minimum of three years.*
2. *Ask the administrator what protections are in place to ensure access to automated records should the facility's automated system be upgraded.*

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

I. Entries in a resident's record shall be current, dated, and authenticated by the person making the entry. Errors shall be corrected by striking through and initialing. If records are electronic, the provider shall develop and implement a policy and procedure to identify how corrections to the record will be made.

12VAC35-46-670. Record reviews.

Complete written policies and procedures for record reviews shall be developed and implemented that shall evaluate records for completeness, accuracy, and timeliness of documentation. Such policies shall include provisions for ongoing review to determine whether records contain all required service documentation, and release of information documents required by the provider.

12VAC35-46-680. Interstate compact on the placement of children.

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

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

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

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

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

Interpretation of § 680: These sections apply to every facility except those which have been determined to be exempt from the compact as provided by the Code of Virginia. This determination is made by the Compact Administrator, Virginia Department of Social Services;

written documentation that the facility is exempt from the compact is provided to the facility when such a determination is made.

These sections apply when a nonresident of Virginia is admitted. Prior approval from the administrator of the Interstate Compact on the Placement of Children is required for each admission, including emergency admissions, of a nonresident child except when nonresident children are placed:

1. *Under the provisions of the "Interstate Compact on Juveniles" (certain runaways and children on probation and parole who are being returned to home states); or*

2. *In a facility which is exempt from the compact as provided by § 63.2-1000 of the Code of Virginia.*

Documentation means a copy of the Interstate Compact form or a fax or copy of a cover letter indicating that the report has been sent. For more information regarding the Interstate Compact go to www.dss.virginia.gov/family/fc/interstate compact.

Compliance Determination for §680:

1. *Ask facility personnel whether there are currently children in care who are nonresidents of Virginia and whether any nonresident children have been in care since the last study of the facility.*

2. *Review residents' records to verify documentation of the prior approval of the compact administrator.*

3. *Review documentation to determine that serious incident reports regarding nonresident children have been sent to the Virginia Interstate Office.*

4. *Review records of discharged, nonresident Virginians to verify notification to the compact administrator was placed in the discharged residents' records within 10 days of discharge.*

5. *Review written documentation that the facility is statutorily exempt from the interstate compact if the administrator states that the compact does not apply.*

6. *Contact the compact administrator for clarification if there is a question as to whether the facility is exempt from the provisions of the interstate compact.*

12VAC35-46-690. Participation of residents in human research.

The provider shall:

1. Implement a written policy stating that residents will not be used as subjects of human research; or

2. Document approval, as required by the department for each research project using residents as subjects of human research, unless such research is exempt from review.

Interpretation of § 690: The department has developed regulations regarding human research. It is the facility's responsibility to be familiar and in compliance with the requirements of the Department.

Compliance Determination for § 690:

1. Review the facility's written policy on human research.

2. Review documentation to ensure that each human research project has been appropriately approved.

12VAC35-46-700. Emergency and self-admissions.

Providers accepting emergency or self-admissions shall:

1. Develop and implement written policies and procedures governing such admissions that shall include procedures to make and document prompt efforts to obtain (i) a written placement agreement signed by the legal guardian or (ii) the order of a court of competent jurisdiction;

2. Place in each resident's record the order of a court of competent jurisdiction, a written request for care, or documentation of an oral request for care; and justification of why the resident is to be admitted on an emergency basis; and

3. Clearly document in written assessment information gathered for the emergency admission that the individual meets the facility's criteria for admission.

Interpretation of §700: The content of written policies and procedures will vary among facilities and will be determined based on the type of program and services provided. In most instances, written policies and procedures should address obtaining the following information about the resident: (1) full name; (2) birth date; (3) gender; (4) racial/ethnic background; (5) last address; (6) names and addresses of persons or agencies to contact in case of an emergency; (7) social security number; (8) health status including: (a) statements of known and obvious illnesses, handicapping conditions, medications currently being taken, general health status; and (b) name, address and telephone number of the resident's physician; and (9) a statement describing the resident's need for immediate care.

Compliance Determination for §700:

1. Review written policy and procedures governing emergency and self admissions.

2. Review residents' records to verify the facility complies with its policies and procedures.

3. Review residents' records to verify the facility has obtained the order of a court of competent jurisdiction, a written request for care, or documentation of an oral request for care.

4. Review the resident's record to verify that the facility has a written justification that the admission was an emergency and that the resident meets the facility's criteria for admission.

5. Review residents' records to verify there is a written placement agreement or copy of a court order. If an agreement or order is not in the record, review the written documentation and verify the facility's efforts to obtain an agreement or court order have been adequate.

12VAC35-46-710. Application for admission.

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

Interpretation of § 710: For emergency admissions and temporary care facilities the initial application may be a shorter version of the longer application due at 30 days.

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

1. The educational needs of the prospective resident;

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

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

4. The protection needs of the prospective resident;

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

6. The behavior support needs of the prospective resident;

7. Family history and relationships;

8. Social and development history;

9. Current behavioral functioning and social competence;

10. History of previous treatment for mental health, mental retardation, substance abuse, brain injury, and behavior problems; and

11. Medication and drug use profile, which shall include:

a. History of prescription, nonprescription, and illicit drugs that were taken over the six months prior to admission;

b. Drug allergies, unusual and other adverse drug reactions, and ineffective medications; and

c. Information necessary to develop an individualized service plan and a behavior support plan.

Interpretation of § 710.B.6 and 7: See the definition of behavior support assessment in § 10. The behavior support needs of the child need to be communicated to staff immediately.

The placing worker may complete the application but the facility staff must ensure that the information is complete and descriptive enough to make an admissions decision and to develop a service plan and a behavior support plan.

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

Interpretation of § 710.C: "Application for admission" means the information needed to make an informed admission decision. Application for admission means the application form and all the required attachments.

The information a facility will need to obtain and evaluate in order to make an informed admission decision will vary among facilities and will be determined based on the type of programs and services provided.

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

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

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

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

Compliance Determination for § 710:

1. Interview staff and review residents' records to verify acceptance for care was based on the application for admission.

2. Review residents' records to verify that each contains the application for admission which contains the required elements.

3. Review residents' records to verify all information was in the record within the required time frames.

4. If information is not available, the reason(s) should be documented. Verify that the reason was valid.

5. Review the written policies and procedures to determine that each facility has a process to assess that prospective residents match services offered by the facility before the acceptance decision is made.

12VAC35-46-720. Written placement agreement.

Interpretation of § 720: The Code of Virginia specifies the individuals/entities having the legal right to execute a placement agreement. There must be a placement agreement unless placement is ordered by a court of competent jurisdiction. To be legally binding, the agreement must be signed by the facility's representative and the individual or entity having the right to make the placement. Individuals/entities having the authority to make placements include: parents; legal guardians; local boards of social services; designated agents of the Department of Juvenile Justice, and licensed child placing agencies.

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

1. Authorizes the resident's placement;

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

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

4. Addresses financial responsibility for the placement;

Interpretation of § 720.A.4: Specific dollar amounts do not need to be addressed in the placement agreement. The placement agreement can reference the Comprehensive Services Act contract.

5. Addresses visitation with the resident; and

Interpretation of § 720.A.5: Visitation refers to visitation with the resident's family and placing worker.

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

Interpretation of § 720.A.6:The education plan should be specific to the child and should include such responsibilities as who will enroll the child, who will obtain educational information, etc. as well as, where the child will attend school.

B. Each resident's record shall contain, prior to a routine admission, a completed placement agreement signed by a facility representative and the parent, legal guardian, or placing agency.

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

Compliance Determination for § 720:

1. *Review residents' records to verify that each contains a valid written placement agreement unless the resident was admitted by a court order.*

2. *Review records of children placed by written agreement for documentation of the legal authority of the person signing the agreement. This documentation may be a statement signed by the person placing the child, a court order or a notation in the record that a staff person verified the legal authority.*

3. *Review residents' records to verify that the written agreements contain the required elements.*

12VAC35-46-730. Face sheet.

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

B. Information shall be updated when changes occur.

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

Interpretation of § 730.C: It is recommended that facilities cross reference the infant's record on the mother's face sheet.

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

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

1. Date of discharge;

2. Reason for discharge;

3. Names and addresses of persons to whom the resident was discharged; and

4. Forwarding address of the resident, if known.

Compliance Determination for § 730:

1. *Review residents' records to verify that each contains a face sheet which includes the required elements.*

2. *Review residents' records to verify that the face sheet was fully completed at the time of admission. Not applicable is not an appropriate response.*

3. *If information is missing, evaluate the facility's documented efforts to obtain promptly the information. Verify that the efforts were adequate.*

4. *Verify that the face sheet contains current information.*

5. *When reviewing discharge records verify that required discharge information has been added to the face sheet.*

12VAC35-46-740. Initial objectives and strategies.

Intent of § 740: The initial objectives and strategies are required to ensure that staff members have necessary information to work with the resident during the initial 30 days. They are meant to address immediate health, safety, service treatment, or educational needs of the resident.

Within three days following admission, individualized, measurable objectives and strategies for the first 30 days shall be developed, distributed to affected staff and the resident, and placed in the resident's record. The objectives and strategies shall be based on the reasons for admitting the resident.

12VAC35-46-750. Individualized service plans/quarterly reports.

Intent of § 750: Neither the facility's program description nor the evaluation of a resident at admission are sufficient to serve as a resident's service plan. Development of an individualized service plan containing goals and objectives and projected time frames is critical. To assure continuity following discharge, it is imperative that the resident; family, if appropriate; legal guardian; facility staff; and the placing agency participate in the development of the service plan. A service plan may also serve as a tool for measuring the facility's performance in meeting the specific needs of the resident. The program director should oversee the development of all assessments and service plans. See §350.B.

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

B. Individualized service plans shall describe in measurable terms the:

1. Strengths and needs of the resident;

2. Resident's current level of functioning;

3. Goals, objectives, and strategies established for the resident;

4. Projected family involvement;

5. Projected date for accomplishing each objective; and

6. Status of the projected discharge plan and estimated length of stay, except that this requirement shall not apply to a facility that discharges only upon receipt of the order of a court of competent jurisdiction.

Interpretation of § 750.B.2: The current level of functioning should be a general level description of how the resident is functioning socially, emotionally, physically, educationally, etc.

Interpretation of § 750.B.4: Projected family involvement addresses the family's anticipated participation in implementing the strategies to accomplish the goals identified in the service plan.

Interpretation of § 750.B.6: Discharge planning is a continuing process beginning at admission and extending throughout placement. Discharge planning also includes an assessment of the resident's needs after discharge and development of a recommended plan of services to meet those needs.

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

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

1. Format;

2. Frequency; and

3. Person responsible.

Interpretation of § 750.D: It is important that the resident's progress or lack of progress is documented to determine if services are appropriate. Facilities will vary on how they will document this progress as the type of documentation chosen will depend on the population served, the services offered, etc. One common method used to document progress is the daily progress note that can be written in various formats.

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

1. Resident's progress toward meeting the plan's objectives;

2. Family's involvement;

3. Continuing needs of the resident;

4. Resident's progress towards discharge; and

5. Status of discharge planning.

Interpretation of § 750.E: There are occasions when family participation is inappropriate (e.g. when parental rights have been terminated by order of a court of competent jurisdiction).

Some facilities are subject to other regulations (e.g. medicaid) which require more frequent service plan reviews. These facilities comply with this section provided reviews, covering all requirements, occur at least quarterly.

Service plan review is not required for any resident who is discharged in less than 90 days.

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

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

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

1. The resident;

2. The resident's family, if appropriate, and legal guardian;

3. The placing agency; and

4. Facility staff.

Interpretation of § 750.H: Participation means the required parties shall be invited to provide input to the service plan and quarterly reports. Participation includes personal visits, meetings, phone calls, or written correspondence.

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

Interpretation of § 750.I: Residents should have reasonable access to his service plan, service plan updates, and quarterly reports. The resident does not have to take copies back to his living unit. If the plan is not distributed document why the plan was not distributed. If the plan is not distributed, document why the plan was distributed. All facilities subject to the Human Rights regulations must maintain compliance to this section.

Compliance Determination for § 750:

1. Review residents' records to verify that individualized service plans and quarterly reviews, which include the required elements, were developed and placed in the residents' records within the required time frames.

2. Interview child care staff and other staff responsible for daily implementation of service plans to verify they can describe residents' behavior in relation to objectives listed in the service plans.

3. Review the residents' records to verify participation of involvement of appropriate parties.

12VAC35-46-760. Resident transfer between residential facilities located in Virginia and operated by the same sponsor.

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

1. Preparation through sharing information with the resident, the family, if appropriate, the legal guardian, and the placing agency about the facility, the staff, the population served, activities, and criteria for admission;

2. Notification to the family, if appropriate; the resident, the placement agency, and the legal guardian;

3. Receipt from the sending facility of a written summary of the resident's progress while at the facility, justification for the transfer, and the resident's current strengths and needs; and

4. Receipt of the resident's record.

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

Interpretation of § 760: Facilities operated by the same sponsor are exempted from completing the application process when a resident is transferred from one facility to another. The written placement agreement (§ 720), face sheet (§ 730), and individualized service plan (§ 750) should be assessed by the receiving facility at the time of transfer. Updating the documents, or completing new documents, is required only to the extent necessary to assure the information is complete, accurate, and current.

When a resident is transferred from a temporary care facility to a long-term care facility, his record may not contain all the information needed to develop a service plan to address the resident's long-term needs. The receiving facility is expected to gather the information needed to: (1) determine the physical, educational, emotional, health, and protection needs of the resident; (2) determine the suitability of the resident's admission; (3) assess any significant risk to the resident, the facility's residents, or the facility's staff; and (4) develop a service plan.

12VAC35-46-765. Discharge.

Intent of § 765: The facility; resident; and resident's parent(s), legal guardian, and placing agency must plan for the resident's discharge. Planning for discharge begins at admission and remains important during placement. In order to assure a successful transition from one program to another or to community life, it is important that the resident be provided with support and continuity. Failure to provide this may negate or reverse any benefits derived by the resident from participation in the program.

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

1. Criteria for a resident's completing the program that are consistent with the facility's programs and services;

2. Conditions under which a resident may be discharged before completing the program; and

3. Procedures for assisting placing agencies in placing the residents should the facility cease operation.

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

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

Interpretation of § 765.C: When discharge is in response to a verbal court order, the facility must: (a) document receipt of the verbal order, and (b) document efforts to obtain a written copy of the order. To comply with this section, the facility must: (a) obtain a copy of the court order, or (b) document continuing efforts to obtain a copy (a single request is not sufficient). A court order is any legal document which authorizes the resident's release and which is signed by a judge, clerk of the court, or a legally authorized designee. Acceptable documents include, but are not necessarily limited to: detention orders, release forms, admission forms, shelter care orders, and transportation orders.

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

Interpretation of § 765.D: With written permission of the legal guardian, facility staff may transport a resident from his old placement to his new placement. If the receiving facility is providing the transportation, the placement agreement must be signed.

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

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

Interpretation of § 765.F: The facility must document that the required information has been given to the legal guardian or the legally authorized individual.

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

1. Documentation that discharge has been planned and discussed with the parent, if appropriate; legal guardian; child-placing agency; and resident; and

2. A written discharge plan.

Interpretation of § 765G: Discharge planning is an important element of the facility's service plan (see § 750.B.6). The facility may incorporate the discharge plan into the resident's service plan or may prepare a separate discharge plan.

In most instances, a discharge plan will include statements identifying: (1) the name of the person or agency to whom discharge is anticipated; (2) the resident's projected needs following discharge; (3) the proposed plan to meet the projected needs; and (4) the individuals responsible for implementing the discharge plan.

H. Discharge summaries.

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

a. Services provided to the resident;

b. The resident's progress toward meeting individualized service plan objectives;

c. The resident's continuing needs and recommendations, if any, for further services and care;

d. Reasons for discharge and names of persons to whom the resident was discharged;

e. Dates of admission and discharge; and

f. Date the discharge summary was prepared and the signature of the person preparing it.

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

Compliance Determination for § 765:

1. *Review a copy of the written criteria for termination of care and verify that it includes all required elements.*

2. *Ask the administrator how the discharge criteria are made accessible.*

3. *Review a sample of records for residents discharged from the facility during the current licensure/certification period and verify documentation is present as required by the standards.*

4. *Review discharge summaries in residents' records to verify that residents were discharged to the legally responsible parties.*

5. *Ask staff the policy and procedures for discharge.*

6. *View documentation showing what information has been made available to the legal guardian or legally authorized representative.*

7. *For respite care facilities, verify that residents are discharged when the legal guardians no longer intend to use the facility's services.*

8. *Review face sheets to determine if requirements of 730.E have been met.*

12VAC35-46-770. Placement of residents outside the facility.

A resident shall not be placed outside the facility prior to the facility obtaining a child-placing agency license from the Department of Social Services, except as permitted by statute or by order of a court of competent jurisdiction.

12VAC35-46-780. Case management services.

Intent of § 780: The very nature of a residential placement requires that every resident have the benefit of basic case management services. The fact that a child has been physically and emotionally separated from his past living environment requires that help and support be available during the transition. Maintaining the interest and involvement of appropriate family and other important people in the resident's life demands the assistance of a person who is readily

available with time to devote to the encouragement of such ties. The structure and demands of group living can be new and difficult for a child, and an accessible qualified case manager to provide counseling is important for discussion of problems and for help in relation to others.

A. The program of the facility shall be designed to provide case management services. At the time of the admission of any resident, the provider shall identify in writing the staff member responsible for providing case management services. Case management services shall address:

1. Helping the resident and the parents or legal guardian to understand the effects on the resident of separation from the family and the effect of group living;

2. Assisting the resident and the family to maintain their relationships and prepare for the resident's future care;

3. Utilizing appropriate community resources to provide services and maintain contacts with such resources;

4. Helping the resident strengthen his capacity to function productively in interpersonal relationships;

5. Conferring with the child care staff to help them understand the resident's needs in order to promote adjustment to group living; and

6. Working with the resident and with the family or any placing agency that may be involved in planning for the resident's future and in preparing the resident for the return home or to another family for independent living or for other residential care.

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

Interpretation of § 780: These sections apply to respite care programs. Case management may be defined in terms of guidance in daily living skills and tasks associated with the acquisition of these skills.

Compliance Determination for § 780:

1. Review any written information describing how the program of the facility is designed to provide for the case management needs of the residents.

2. Review residents' records to observe documentation of the provision of case management.

3. Child care staff may be interviewed and asked whether residents receive the case management listed.

4. Case managers may be interviewed and asked how services are delivered and documented.

5. Ask the administrator how case managers schedule their time to assure that residents' needs are met.

12VAC35-46-790. Therapy.

Therapy shall be provided by an individual (i) appropriately licensed by the Department of Health Professions to provide mental health therapy or counseling; or (ii) who is eligible for licensure and working under the supervision of a licensed therapist unless exempted from these requirements under the Code of Virginia.

12VAC35-46-800. Structured program of care.

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

1. Meet the residents' physical and emotional needs;

2. Provide protection, guidance, and supervision; and

3. Meet the objectives of any required individualized service plan.

Interpretation of § 800.A: A structured program of care refers to the daily program of the facility. The daily program should evidence a definite daily schedule upon which the resident can rely. To adequately implement elements listed in this standard, staff supervision of the resident and support for the program are essential. Since each child care worker may implement the daily program differently, it is important to gather information about it in the living units and activity areas and not just from administrators.

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

Compliance Determination for § 800.A and B:

1. Determine whether there is a structured program of care implemented at the facility by the following

- *Review any posted daily schedules found in living units and elsewhere.*
- *Ask child care staff and other staff to describe the daily program of the residents.*
- *Ask residents to describe what they do each day.*
- *During discussions of services and program components*

covered in other areas of the standards note whether there is evidence that the residents are supported by and relate to program activities.

2. Determine whether the structured program of care provides the elements in this standard by the following:

- *In discussions with a resident's care staff, observe whether the daily program is designed to meet the objectives of the resident's service plan. This would include the overall program as well as, individual services for each resident.*
- *When reviewing emergency reports of incidents, accidents or injury note whether adequate protection, guidance and supervision were lacking in the program of care.*
- *In interviewing residents, determine whether they feel secure and adequately protected (supervised) in every aspect of their daily activities, both on and off the premises.*
- *Observe whether daily experiences allow for staff time and attention to meet the physical needs of the residents.*
- *Review the reasons for discharges to determine if any of the reasons indicate a deficiency in any of the elements cited in this standard.*
- *When reviewing residents' medical reports where a need for follow-up care is indicated, ask the child care worker how this is done.*

Intent of § 800. C-E: The intent of these requirements is to assure the recording of significant problems or events in the lives of residents so as to alert relief staff and to provide continuity.

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

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

Interpretation of § 800.D: This health information should also be recorded in the resident's health record.

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

Compliance Determination for § 800.C-E:

1. Review daily communication log.

2. Determine whether the log is used to record significant happenings or problems, including health and dental complaints and injuries, that should be brought to the attention of staff.

3. Determine whether entries are dated and that the person making the entry is identified.

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

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

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

Compliance Determination for § 800. F-H:

1. Determine whether time is scheduled for sleep and rest.

2. Ask child care workers how the amount of sleep and rest for residents is determined according to age and physical condition.

3. Ask what difficulties are encountered around sleep and rest periods and with what frequency; observe whether these difficulties prohibit the assurance of adequate sleep and rest as a general rule.

4. Ask residents if they get adequate sleep and rest.

5. Ask child care staff what time periods during the daily schedule allow them to supervise grooming and physical cleanliness.

6. Ask child care staff how they supervise grooming and physical cleanliness.

7. Observe whether the residents appear to be clean, well-groomed and appropriately dressed for various activities, the season, and the time of day.

8. Ask staff and residents what curfews are followed.

12VAC35-46-810. Health care procedures.

Intent of § 810: Medical information is important to assessing the appropriateness of admission and must be accessible to persons responsible for the residents' care. Both initial and ongoing

medical care are necessary because many residents come from environments where their health and medical needs were not met. The facility is the primary provider of care and it must have adequate procedures for meeting health needs, including ongoing checkups and care, medical emergencies, and distribution of medications.

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

1. Providing or arranging for the provision of medical and dental services for health problems identified at admission;

2. Providing or arranging for the provision of routine ongoing and follow-up medical and dental services after admission;

3. Providing emergency services for each resident;

4. Providing emergency services for any resident experiencing or showing signs of suicidal or homicidal thoughts, symptoms of mood or thought disorders, or other mental health problems; and

5. Ensuring that the required information in subsection B of this section is accessible and up to date.

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

1. Name, address, and telephone number of the physician and dentist to be notified;

2. Name, address, and telephone number of a relative or other person to be notified;

3. Medical insurance company name and policy number or Medicaid number;

4. Information concerning:

a. Use of medication;

b. All allergies, including medication allergies;

c. Substance abuse and use; and

d. Significant past and present medical problems; and

5. Written permission for emergency medical care, dental care, and obtaining immunizations or a procedure and contacts for obtaining consent.

Interpretation of § 810.B.3: Staff should know what to do if the Medicaid number or insurance number has not been issued yet.

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

Compliance Determination for § 810:

1. *Review the written procedures for medical, dental and emergency services.*

2. *Ask the administrator how staff are informed about these procedures.*

3. *Ask child care staff how they were oriented to the procedures.*

4. *Ask child care staff how residents are provided medical and dental services in a prompt manner.*

5. *Review medical documentation in resident's records to verify that existing procedures assure that medical services are provided promptly.*

6. *Review written information to verify the required items are present.*

7. *Ask the administrator to explain how he makes the required information available to staff responsible for supervising children.*

8. *Ask child care staff whether the information to respond to a dental or medical emergency is accessible to them and how it is made accessible.*

12VAC35-46-820. Written policies and procedures for a Crisis or Clinical emergency.

The provider shall develop and implement written policies and procedures for a crisis or clinical emergency that shall include:

1. Procedures for crisis or clinical stabilization, and immediate access to appropriate internal and external resources, including a provision for obtaining physician and mental health clinical services if on-call physician back-up or mental health clinical services are not available; and

2. Employee or contractor responsibilities.

12VAC35-46-830. Documenting crisis intervention and clinical emergency services.

A. The provider shall develop and implement a method for documenting the provision of crisis intervention and clinical emergency services. Documentation shall include the following:

1. Date and time;

2. Nature of crisis or emergency;

3. Name of resident;

4. Precipitating factors;

5. Interventions/treatment provided;

6. Employees or contractors involved;

7. Outcome; and

8. Any required follow-up.

B. If a crisis or clinical emergency involves a resident who receives medical or mental health services, the crisis intervention documentation shall become part of his record.

C. There shall be written policies and procedures for referring to or receiving residents from:

1. Hospitals;

2. Law-enforcement officials;

3. Physicians;

4. Clergy;

5. Schools;

6. Mental health facilities;

7. Court services;

8. Private outpatient providers; and

9. Support groups or others, as applicable.

12VAC35-46-840. Medical examinations and treatment.

Intent of § 840: The intent of § 840 is to (1) determine whether there are any medical concerns which may make the child's admission inappropriate; (2) ensure that children who are admitted have their physical needs identified, monitored, and met; and (3) provide a system of record-keeping and accountability to ensure that residents are free from communicable diseases or that the facility is capable of providing care to the child with a communicable disease without jeopardizing other residents or staff.

A. Each child accepted for care shall have a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to admission to the facility or no later than seven days following admission, except (i) the report of an examination within the preceding 12 months shall be acceptable if a child transfers from one residential facility licensed or certified by a state agency to another; and (ii) a physical examination shall be conducted within 30 days following an emergency admission if a report of physical examination is not available.

B. Within seven days of placement, each resident shall have had a screening assessment for tuberculosis as evidenced by the completion of a screening form containing, at a minimum, the elements found on the Report of Tuberculosis Screening form published by the Virginia Department of Health. The screening assessment may be no older than 30 days.

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

Interpretation of § 840.C: Only the reporting form indicating that the risk assessment has been completed needs to be kept in the resident's record.

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

E. Each physical examination report shall include:

1. Information necessary to determine the health and immunization needs of the resident, including:

a. Immunizations administered at the time of the exam;

b. Vision exam;

c. Hearing exam;

d. General physical condition, including documentation of apparent freedom from communicable disease, including tuberculosis;

e. Allergies, chronic conditions, and handicaps, if any;

f. Nutritional requirements, including special diets, if any;

g. Restrictions on physical activities, if any; and

h. Recommendations for further treatment, immunizations, and other examinations indicated;

2. Date of the physical examination; and

3. Signature of a licensed physician, the physician's designee, or an official of a local health department.

Interpretation of § 840.E.1: The physical examination report must contain all elements. Some type of entry must be found for each element to indicate that the physician did not miss the element. Facility staff should ensure that there are no elements left empty but are not responsible for what entry is made.

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

1. The facility is capable of providing care to the child without jeopardizing residents and staff; and

2. The facility is aware of the required treatment for the child and the procedures to protect residents and staff.

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

Compliance Determination for § 840.A-G:

1. *Review residents' records to verify the reports contain the required information.*

2. *Review each report of medical examination and compare its date with that of the resident's admission.*

3. *Review each medical examination report for the signature of a licensed physician or his designee.*

4. *Review for follow-up physical and dental care as indicated.*

5. *Review residents' records to verify notations of physical and dental health complaints, injuries, or treatment were made.*

6. *Review residents' records to verify current psychiatric and ongoing mental health treatment reports, if applicable.*

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

I. Each resident's health record shall include or document the facility's efforts to obtain treatment summaries of ongoing psychiatric or other mental health treatment and reports.

J. The provider shall develop and implement written policies and procedures that include use of standard precautions and address communicable and contagious medical conditions. These policies and procedures shall be approved by a medical professional.

Interpretation of § 840.J: Examples of communicable and contagious medical conditions would include, but not be limited to, measles, mumps, chicken pox, lice, tuberculosis, ringworm, Hepatitis, and HIV infection. Each facility is encouraged to call their local health department for consultation when developing these policies. The facility may also want to contact the Virginia Department of Labor and Industry - Division of Occupational Safety and Health to ensure they are meeting Federal Regulations regarding standard/universal precautions. A medical professional is licensed medical person such as a medical doctor, nurse practitioner, registered nurse, licensed practical nurse (LPN), pharmacist, or a physician's assistant. A certified nurse's assistant is not considered a medical professional.

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

Interpretation of § 840.K: Adequate, well-stocked first aid kits are commercially available for purchase at retail stores. They should be restocked as needed. A well-stocked first aid kit might include assorted band aids, gauze, bandages, tape, safety pins, scissors, tweezers, first aid ointment, and antiseptics for minor wounds not requiring doctor's care. A first aid kit shall be readily accessible to each living unit on campus. A kit is required when residents are on excursions; the excursion site becomes the "living unit." First aid kits should also be kept in vehicles used to transport residents.

Compliance Determination for § 840.K:

1. *Verify the presence of a first-aid kit stocked for minor injuries and medical emergencies.*

2. *Ask staff if a first-aid kit is readily accessible and whether adequate supplies are available to take care of the typical injuries and medical emergencies of the residents.*

3. *Ask residents how they receive care for minor injuries and medical emergencies.*

12VAC35-46-850. Medication.

A. The provider shall develop and implement written policies and procedures regarding the delivery and administration of prescription and nonprescription medications used by residents. At a minimum these policies will address:

1. Identification of the staff member responsible for routinely communicating to the prescribing physician:

a. The effectiveness of prescribed medications; and

b. Any adverse reactions, or any suspected side effects.

2. Storage of controlled substances;

3. Documentation of medication errors and drug reactions; and

4. Documentation of any medications prescribed and administered following admission.

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

Interpretation of § 850.B: Both prescribed and over-the-counter medications must be locked and properly labeled. Vitamins and supplements are considered a medication and should be locked. Each resident does not have to have a separate bottle of over-the-counter medication. For

example, one bottle of Tylenol is acceptable for all residents who have a standing order for Tylenol, as long as the bottle has its store label.

Controlled substances may require additional precautions. Facilities should ask the pharmacist if medication is a controlled substance. If the medication is a controlled substance ask what additional safeguards should be taken.

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

Interpretation of § 850.B: Facilities should call their regulators for information on the medication training program. This course is 32 hours of classroom training. Providers must document that the trainer is a qualified trainer by keeping a copy of the trainer's certificate on file.

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

Interpretation of § 850.C: "Administered" refers to the distribution to the residents of both prescribed and over-the-counter medication by trained staff. These persons shall be knowledgeable of the side effects and symptoms caused by any of the medications they distribute and shall be responsible for assuring that label directions for both prescription and over-the-counter medications are followed. The provider is accountable for ensuring that staff delivering medications know the side effects of the medications and symptoms of the effects. This is applicable for both prescription and over-the-counter drugs. Access to a current Physician's Desk Reference or similar resource may be useful. Pharmacies provide a list of side effects of medications when prescriptions are filled. Over-the-counter drug side effects are usually provided on the box the medication comes in or in the information included with the medication.

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

Interpretation of § 850.D: A "program of medication" is the scheduled distribution of any medicine, that may be prescribed for a resident. The pharmacy prescription label showing the name of the resident, the name of the physician and the instructions for dosage may be sufficient evidence to determine compliance with this standard for a prescribed medication. Whenever over-the-counter medication is administered, it shall be under the direct or standing orders of a person authorized by law to prescribe medication.

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

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

1. Date the medication was prescribed;

2. Drug name;

3. Schedule for administration;

4. Strength;

5. Route;

6. Identity of the individual who administered the medication; and

7. Dates the medication was discontinued or changed.

Interpretation of § 850.F: The medication administration record must record both prescribed and over-the-counter medicines received by each resident.

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

Interpretation of § 850.G: The attending physician is the physician who has prescribed the medication or the physician that is responsible for providing medical care to the resident.

Medication errors include but are not limited to, situations where: the wrong dosage was administered; the wrong medication was administered; the medication was administered by the wrong method; the wrong child was administered medication; and medication was administered late or a dosage missed when the time of administration has been identified as critical to the maintenance of a therapeutic level. Medication errors should be documented in the resident's record.

Standing orders refer to the documented order of the physician prescribing the medication that indicates how the medication is to be administered and the actions to take if there is a medication error or an adverse reaction to the medication. If there is no standing order from the physician pertaining to the specific medication, the attending physician shall be notified as soon as possible. It is recommended that standing orders be filed in the resident's record when the medication is no longer in use.

I. Medication refusals shall be documented including action taken by staff.

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

Interpretation of § 850.J: A health care profession is a licensed medical professional. This would include a medical doctor, nurse practitioner, registered nurse, licensed practical nurse (LPN), physician's assistant, or a pharmacist. A certified nurse's assistant is not considered a health care professional.

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

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

Compliance Determination for § 850:

1. *Ask staff how they assure that all medications are securely locked and labeled (prescription and over-the-counter).*

2. *Observe the storage area for medications to verify that it is securely locked.*

3. *Observe the medications to verify that they are properly labeled.*

4. *Ask the administrator who has received training to distribute medication and review personnel files for documentation of medication training. Ask residents how they receive medication and from whom. Ask for documentation that the medication training instructor is certified to provide training.*

5. *Ask child care staff what system is used for the distribution of medication.*

6. *Ask staff trained to distribute medication for information on side effects and symptoms of some of the medication.*

7. *Ask staff how and when over-the-counter medications are used.*

8. *Review residents' medical records to determine whether any program of prescribed or over-the-counter medication has been distributed without a physician's orders.*

9. *Review prescribed medications to verify that they were obtained from a licensed pharmacist.*

10. *Review the medication administration record (MAR) for distribution of all medication (prescription and over-the-counter). Note whether the MAR indicates all medication received by each resident. Medication administration records may be kept in a wide variety of ways (notebook, file, cards, etc.).*

11. *Review residents' records of "health and dental complaints" and for "reports of incidents, accidents or injury" to note any incidents of drug reactions or medication errors. If any, ask if the appropriate person was notified in each case.*

12. Verify that the telephone number of the Regional Poison Control Center is posted next to the nonpay telephone in each building in which children sleep or participate in a program.

13. Review written policies and procedures to ensure that the required elements are included and that a health care professional has approved the policies and procedures.

12VAC35-46-860. Nutrition.

A. Each resident shall be provided a daily diet that (i) consists of at least three nutritionally balanced meals and an evening snack; (ii) includes an adequate variety and quantity of food for the age of the resident; and (iii) meets minimum nutritional requirements and the U.S. Department of Health and Human Services and U.S. Department of Agriculture Dietary Guidelines for Americans, 2005, 6th Edition.

Interpretation of § 860.A: In order to assure that the residents will receive an adequate, well-balanced diet, food served daily should be selected from each of the five major food groups:

- *Fruit Group – 2 cups or 4 servings*
- *Vegetable Group – 2.5 cups or 5 servings*
- *Grain Group – 6 ounces*
- *Meat and Beans Group – 5.5 ounces*
- *Milk Group – 3 cups*
- *Oils—6 tsp*

No more than 267 calories from fats and sugar (18 grams or 8 teaspoons).
Additional guidance and nutrition resources are available at www.usda.gov.

After observations of meals, interviews with residents and discussions with staff, if questions arise regarding adequate food quantity, reviewers shall contact the local office of the Virginia Cooperative Extension Services for guidance, and such other sources as may be necessary to determine compliance.

Compliance Determination for § 860.A:

1. Review menus.

2. Observe food being served at mealtimes to verify that it corresponds with the menu.

3. Observe the food storage areas to verify that there is food on hand.

4. Evaluate meals served to see that they are nutritionally balanced. Observe if an adequate amount of food appears available.

5. Ask staff and residents how many meals are served each day. Ask residents if enough food is served at meals such that they do not stay hungry.

6. Review menus and observe meals served to determine if meals are planned with consideration for the five food groups.

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

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

Interpretation of § 860.C Resident's food preferences and cultural practices should also be considered..

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

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

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

Interpretation of § 860.F It is not the intent of this standard that a full breakfast be served before the regularly scheduled breakfast. However, food such as fruit or cereal should be available.

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

Compliance Determination for § 860.C-G:

1. Ask the administrator how special diets are provided.

2. Observe from the records the names of residents on special diets and ask food service personnel how the diets are provided.

3. Ask whether there are residents with religious backgrounds requiring special diets and inquire how the facility provides for the special diet.

4. Ask if staff members eat with the residents and, if so, what foods they eat. Observe at mealtime for compliance determination.

5. Ask when meals are served. Review the program schedule to determine if more than fifteen hours exist between the evening meal and available breakfast and no

more than 17 hours when the facility is operating on a weekend or holiday schedule.

6. Confirm that the facility has received approval from the Department if the time between the evening meal and breakfast is over 15 hours.

12VAC35-46-870. Staff supervision of residents.

Interpretation of § 870.C: Resident's food preferences and cultural practices should also be considered..

A. No member of the child care staff shall be on duty more than six consecutive days without a rest day, except in an emergency or as approved by the department for live-in staff.

B. Child care staff shall have an average of at least two rest days per week in any four-week period. Rest days shall be in addition to vacation time and holidays.

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

Compliance Determination for § 870.A-C:

1. Analyze work schedules, time cards, leave records, training schedules, and other methods the facility uses for employee record keeping. Review of a work schedule requires evaluating it to verify compliance with the norm (§ 870.A). Verify that:

a. No member of the child care staff works more than the maximum number of consecutive days allowed by § 870.A without a rest day;

b. Child care staff members have at least eight rest days in each four-week period in addition to time off for vacations and holidays.

c. Child care staff members who work shifts (do not "live in") are not on duty for longer than 16 consecutive hours, unless an emergency is documented.

2. Ask administrative personnel and employees about their individual work schedules, how work schedules are developed, and steps taken by the facility to assure compliance with these sections.

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

Interpretation of § 870.D: The needs of the population served will determine how actively supervising will be defined.

Compliance Determination for § 870.D:
Review administrative policies and staff schedule/logs to verify compliance. Ask staff and children about who remains at the facility when some of the residents are away from the facility and others remain at the facility.

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

Interpretation of § 870.E: Present means within hearing distance.

F. Supervision policies.

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

a. Needs of the population served;

b. Types of services offered;

c. Qualifications of staff on duty; and

d. Number of residents served.

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

3. Providers requesting a ratio that allows a higher number of residents to be supervised by one staff person than was approved or required shall submit a justification to the department that shall include:

a. Why resident care will not be adversely affected; and

b. How residents' needs will be met on an individual as well as group basis.

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

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

Interpretation of § 870.F: *Policies and Procedures governing the supervision of children involves the planned assignment or stationing of staff responsible for supervising children during awake as well as during sleeping hours. Deployment of staff should be planned, thought-out, and organized in advance.*

A supervision plan must include how the facility plans to supervise residents both on and off campus. Resident preferences refers to situations when a resident, or group of residents, do not want to accompany other residents on an activity, outing, or errand. The supervision plan must also include a master schedule describing the facility's assignment of staff to cover each post and assure compliance with approved staff/child ratios. Staffing plans must address changes in the behavioral needs of the residents. Additional staff must be available to come in to assist with supervision needs should the need arise.

Supervision plans should reflect the safety needs of the residents and staff members. Single coverage is discouraged as it leaves both residents and staff members in vulnerable situations. There should be the appropriate number of staff to give each resident the time and attention they need to meet the goals and objectives of their service plans. It is just as important that residents who can mange their own behavior receive adequate quality time and attention from staff as it is for residents that have difficulty managing their behavior. Additional staff will be needed to supervise residents with greater needs.

Policies and procedures governing supervision of children will be reviewed and approved by the Department prior to the issuance of a license to operate. Any proposed revisions to the policies and procedures governing the supervision of children during the duration of the license must be reviewed and approved by the Department prior to implementation.

Compliance Determination for § 870.F:

1. *Review the facility's supervision policies and procedures.*

2. *Verify the facility's implementation by comparing actual staff schedules with the master schedule.*

3. *Ask staff and children about the staff/child ratios and supervision during different types of on-campus and off-campus activities.*

4. *Observe staff/child ratios and placement of staff.*

5. *Review staff schedules and logs for on-campus and off-campus activities. Interview staff and residents to determine whether the approved ratios are being maintained.*

6. *Observe staff to child ratios for on-campus activities. If off-campus activities occur during the visit to the facility, observe the staff to child ratios.*

7. Interview staff and residents and review serious incident reports, communication logs and other documentation to determine if the approved staff to resident ratio continues to be appropriate for the population served.

12VAC35-46-880. Emergency telephone numbers.

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

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

Intent of § 880: This section is intended to provide staff and residents prompt access to a responsible adult should an emergency or other unexpected event occur.

Interpretation of § 880: This section does not require that the telephone number of the responsible person be a facility site number. When a facility operates on a schedule of less than 12 months, it is not necessary for the telephone to be staffed during official periods of closure when the facility has no responsibility for child care. Section 840.A is applicable when staff and residents are on excursions.

It is expected that the responsible adult be readily accessible to the emergency number. It is not sufficient for staff and residents to have a number of an adult who can not be reached at the number for a period of time. Use of a cellular phone, a beeper, or other device is permissible provided the operator remains within the established calling area for the device and the device is kept charged.

Compliance Determination for § 880:

1. Confirm with the administrator, the staff, and the residents that a telephone number is provided to all residents and staff for use when away from the facility.

2. Confirm with the administrator and the staff that a telephone number is provided to all staff for use when children are on the premises of the facility. Obtain the telephone number for the person currently on call.

12VAC35-46-890. Searches.

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

1. As permitted by other applicable state regulations; or

2. As ordered by a court of competent jurisdiction.

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

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

1. Pat downs shall be limited to instances where they are necessary to prohibit contraband;

2. Pat downs shall be conducted by personnel of the same gender as the resident being searched;

3. Pat downs shall be conducted only by personnel who are specifically authorized to conduct searches by the written policies and procedures; and

4. Pat downs shall be conducted in such a way as to protect the resident's dignity and in the presence of one or more witnesses.

Intent of § 890: This section is intended to protect children from intrusive and unwarranted body searches.

Compliance Determination for § 890:

1. *Review the facilities policies and procedures governing pat downs. Verify that staff and residents are familiar with the policy and circumstances, if any, when pat downs are permitted. Verify that the policy is being followed.*

2. *Verify that the policy adequately addresses each of the required elements.*

3. *Verify that strip and body cavity searches are not being conducted unless permitted by interdepartmental modules, other applicable state regulations, or by order of a court of competent jurisdiction. Verify that staff and residents are aware of the prohibition and the circumstances, if any, when strip searches or body cavity searches are permitted. Verify that the prohibition is being implemented.*

12VAC35-46-900. Behavior support.

Intent of § 900: The focus of this on-going process should be on teaching and supporting residents to practice methods to manage their own behavior. Policies and procedures should emphasize positive techniques used to accomplish this goal.

It is not the intent of this standard to wait 30 days to begin writing the behavior support plan. Work on a resident's behavior support plan should begin as soon as admission information is received. Any known behavior support issues, especially triggers for inappropriate behavior, should be communicated to staff before the resident is placed. Behavior support plans should be continually updated as new information is received. Residents need to have the tools to manage their own behaviors as soon as possible.

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

1. Identification of positive and problem behavior;

2. Identification of triggers for behaviors;

3. Identification of successful intervention strategies for problem behavior;

4. Techniques for managing anger and anxiety; and

5. Identification of interventions that may escalate inappropriate behaviors.

Interpretation of § 900.A: The behavior support plan may be a special section of the resident's service plan.

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

1. Resident;

2. Legal guardian;

3. Resident's parents, if appropriate;

4. Program director;

5. Placing agency staff; and

6. Other appropriate individuals.

Interpretation of § 900.B: The resident themselves are often the best resource to provide behavior support information. Information from former care givers may also be valuable in developing the behavior support plan.

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

Interpretation of § 900.C: It is suggested that staff members sign off on the plan after reading it.

Compliance Determination for § 900:

1. Review any training/supervision staff have received regarding resident behavior support plans.

2. Determine when behavior support information was shared with staff.

3. After reviewing behavior support plans and determining that all required elements are included interview staff to determine if they have knowledge and understanding of assigned resident's behavior support plans.

4. Ask staff when and how behavior support plans are written.

5. Ask residents if they helped develop their behavior support plans.

D. Each provider shall develop and implement written policies and procedures concerning behavior support plans and other behavioral interventions that are directed toward maximizing the growth and development of the resident. In addition to addressing the previous requirements of this regulation, these policies and procedures shall:

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

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

3. Specify the processes for implementing such policies and procedures;

4. Specify the mechanism for monitoring the use of behavior support techniques; and

5. Specify the methods for documenting the use of behavior support techniques.

12VAC35-46-910. Timeout.

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

Interpretation of § 910.A: A resident who voluntarily removes himself form a situation is not considered to be in timeout.

B. The area in which a resident is placed shall not be locked nor the door secured in a manner that prevents the resident from opening it.

Interpretation of § 910.B: The resident can be directed to go to his bedroom for timeout as long as the door is not locked.

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

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

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

Compliance Determination for § 910:

1. Ask child care staff and residents to describe the procedures for restricting a resident to his room.

2. Determine whether residents are ever confined in a locked room.

3. Determine whether residents are able to communicate with staff when confined.

4. Review residents' records and communication logs for documentation of confinement, including documentations of room checks.

5. Review policies and procedures to determine when checks will occur more frequently than every 15 minutes.

12VAC35-46-920. Prohibitions.

The following actions are prohibited:

1. Deprivation of drinking water or food necessary to meet a resident's daily nutritional needs, except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;

2. Limitation on contacts and visits with the resident's attorney, a probation officer, regulators, or placing agency representative;

Interpretation of § 920.2: Facility personnel may provide these individuals information about scheduled educational, therapeutic, and recreational activities and suggest convenient times for visitation. However, access may not be denied if the individuals elect to visit at other times.

3. Bans on contacts and visits with family or legal guardians, except as permitted by other applicable state regulations or by order of a court of competent jurisdiction;

Interpretation of § 920.3: Ban means a total prohibition on contacts and visits with the family or legal guardian. Contacts and visits may be limited to regularly scheduled visitation periods and other times when visits will not interfere with a resident's participation in facility activities. In addition, visits may temporarily be restricted when it is therapeutically in the best interest of the resident and approved by the legal guardian.

4. Delay or withholding of incoming or outgoing mail, except as permitted by other applicable state and federal regulations or by order of a court of competent jurisdiction;

Interpretation of § 920.4: Federal law prohibits the tampering with another individual's mail. Any need to limit or prohibit communication between a resident and another person would be governed by federal postal regulations. Facility personnel may withhold mail of minors if the legal guardians document their approval of or request for withholding mail. In these instances, facilities should ask the legal guardian what to do with the unopened mail. Facilities may have the resident open mail in the presence of staff when there is a concern for the resident's safety or well-being or an indication that contraband may be concealed. Mail must be promptly given

to residents except where an applicable state or federal regulation permits a delay.

5. Any action that is humiliating, degrading, or abusive;

Interpretation of § 920.5: This standard may apply in many different circumstances that are humiliating, degrading or abusive. The definitions of humiliating, degrading, and abusive found in Webster's Dictionary, the use of professional judgment, and consideration for the individual circumstances will apply. Regulators will not use the same definition of abuse or neglect as used by child protective services.

6. Corporal punishment;

7. Subjection to unsanitary living conditions;

Interpretation of § 920.7: Clean, hygienic, and healthy conditions, evidenced by an absence of dirt and agents of disease, are to be maintained.

8. Deprivation of opportunities for bathing or access to toilet facilities, except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;

9. Deprivation of health care;

10. Deprivation of appropriate services and treatment;

Interpretation of § 920.10: Appropriate services and treatment shall be provided. Examples of depriving appropriate services and treatment may include, but not be limited to, if a facility fails to:

1. *Follow through with the recommended therapeutic treatment for a resident;*
2. *Provide the services established in the service plan and described in its program description; or*
3. *Provide necessary medical treatment.*

11. Application of aversive stimuli, except as permitted pursuant to other applicable state regulations;

12. Administration of laxatives, enemas, or emetics, except as ordered by a licensed physician or poison control center for a legitimate medical purpose and documented in the resident's record;

13. Deprivation of opportunities for sleep or rest, except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record; and

14. Limitation on contacts and visits with advocates employed by the department or the Virginia Office for Protection and Advocacy.

Interpretation of § 920: This section specifies actions that are prohibited in all interactions with residents.

Compliance Determination for § 920:

1. *Review personnel records for any indication that inappropriate actions may have occurred. Review resident records and daily logs for indications of serious incidents where a prohibited action may have occurred.*

2. *Ask staff and residents if any of the prohibited actions have occurred.*

3. *Observe interactions between staff and residents and conditions at the facility for any indication of prohibited actions.*

12VAC35-46-930. Pharmacological or mechanical restraints.

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

Interpretation of § 930A: Mechanical restraints include, but are not limited to, handcuffs, straightjackets, shackles, poseys, and stun guns. A device is not considered to be a mechanical restraint when used to provide support for the achievement of functional body position or proper balance or when used for specific medical and surgical treatment or treatment for self-injurious behavior.

Compliance Determination for § 930.A:

1. *Ask the administrator, child care staff, and residents if mechanical restraints are ever used to control resident behavior. If evidence indicates that mechanical restraints are used, determine whether use is permitted and under what conditions, by another applicable state regulation or has been ordered by a court of competent jurisdiction.*

2. *If a determination of noncompliance is made, determine whether there is reason to suspect that abuse or neglect has occurred. If abuse or neglect is suspected, report the circumstances to Child Protective Services.*

B. Use of pharmacological restraints is prohibited.

Interpretation of § 930.B: Use of a psychotropic medication or other chemical(s) is not considered chemical restraint when administered as prescribed by a licensed physician to treat a diagnosed medical or psychiatric condition. Treatment of some medical and psychiatric conditions requires use of a psychotropic medication, or other chemical(s), to control behavior as an essential element of treatment. However, psychotropic medications and other chemicals shall not be used as a staff management tool for the sole purpose of controlling resident behavior.

Compliance Determination for § 930.B:

1. *Ask the administrator, child care staff, and residents if chemical restraints are ever used to control resident behavior. If evidence indicates that chemical restraints are used, determine whether use is limited to those instances where prescribed by licensed physicians to treat diagnosed medical or psychiatric conditions.*

2. *If a determination of noncompliance is made, determine whether there is reason to suspect that abuse or neglect has occurred. If abuse or neglect is suspected, report the circumstances to Child Protective Services.*

3. *Review the resident's diagnosis and the medication prescribed and the doctor's rationale for prescribing the medication.*

12VAC35-46-940. Behavior interventions.

Intent of § 940: The focus of this on-going process should be on teaching and supporting residents to practice methods to manage their own behavior. Policies and procedures should emphasize positive techniques used to accomplish this goal. Behavior interventions include a progression of techniques from the least restrictive to the more restrictive. The goal is to establish a culture where physical restraint is unnecessary.

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

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

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

3. Specify the processes for implementing such policies and procedures.

Interpretation of § 940.A: The policies and procedures should include when each technique should be used. The appropriate least restrictive behavior management technique should always be used first. The goal is to de-escalate the resident before a restrictive behavior management technique is needed.

An example for § 940.A.3 – In a point or level system describe who can make what decisions. (Who can award points? Who can move a resident up or down a level? etc.

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

1. Residents within 12 hours following admission;

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

3. Legal guardians within 72 hours following the resident's admission. This requirement does not apply when a state psychiatric hospital is evaluating a child's treatment needs as provided by the Code of Virginia.

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

1. Residents prior to implementation; and

2. Legal guardians and placing agencies prior to implementation except when a state psychiatric hospital is evaluating a child's treatment needs as provided by the Code of Virginia.

Interpretation of § 940.C: *"Substantive" means change which affects the rights and privileges of residents, legal guardians, family, or referral agencies. Substantive changes include, but are not limited to, changes to the policies governing management of resident behavior which might affect residents' rewards/consequences, discharge, filing criminal charges, visitation privileges, off-campus activities, and home visits.*

The information provided may be an overview of the facility's approaches and techniques for governing management of resident behavior. If the facility utilizes rules of conduct, they must be included. Exhaustive or detailed information about all the intricate facets of the program is not necessary.

Residents diagnosed as having mental disabilities resulting in the loss of the cognitive ability to understand the information include only those with a diagnosed medical or psychological disability which is likely to have long-term effects. A resident who is under the influence of alcohol or other controlled substance, who is disorderly, or who refuses to accept the information does not, for that reason alone, have a mental disability.

Frequently a referral agency (e.g. juvenile court, local department of public welfare/social services) will make multiple placements at the same facility. It is not necessary to provide the agency a copy of the written information with each admission; a single copy may be provided the agency for use by all agency personnel. When substantive revisions are made, a revised copy must be sent to the referral agencies.

Intent of § 940.D-J: *The intent of these sections is to ensure that physical restraint is used judiciously and only when, in the judgment of a reasonable and informed person, the resident's behavior would likely result in harm to the resident or others. Risk of injury or even death is involved in every use of physical restraint. These sections are also intended to: (1) protect residents from unwarranted use of physical restraint and (2) protect staff members and residents from the injuries which might occur during use of physical restraint.*

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

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

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

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

Interpretation of § 940.D: The facility is expected to develop an action plan to be followed in the event the interventions normally used are unsuccessful. Factors which should be considered in developing the action plan include: the population served, the level of residents' disabilities, and access to external services.

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

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

G. Trained staff members may physically restrain a resident only after less restrictive interventions.

H. Only trained staff members may manage resident behavior.

Interpretation of § 940.H: "Trained staff members" includes only individuals who have been trained in the facility's policies, procedures, and techniques for managing/supporting resident behavior. Residents may be involved in developing rules of conduct and should also be involved in discussions regarding their own behavior support issues. However, implementation of behavior management techniques must remain exclusively a staff responsibility. Implementation shall not be delegated to residents, volunteers, students, or other nonstaff members.

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

1. Date;

2. Time;

3. Staff involved;

4. Justification for the restraint;

5. Less restrictive interventions that were unsuccessfully attempted prior to using physical restraint;

6. Duration;

7. Description of method or methods of physical restraint techniques used;

8. Signature of the person completing the report and date; and

9. Reviewer's signature and date.

Interpretation of § 940.I: The reviewer should be from the chief administrative officer, program director or case manager level. The quality improvement plan should address improvements that need to be made as the result of the review of physical restraints. Again, the goal is to create a culture where physical restraint is unnecessary.

J. Providers shall ensure that restraint may only be implemented, monitored, and discontinued by staff who have been trained in the proper and safe use of restraint, including hands-on techniques.

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

L. Any time children are present staff shall be present who have completed all trainings in behavior intervention.

Interpretation of § 940.L: Staff who are present should be actively supervising residents.

Compliance Determination for § 940:

1. *Review the facility's written policies and procedures for managing resident behavior, including the written rules of conduct, if any. Determine whether the policies and procedures are appropriate to the age and developmental level of the residents and that there are safeguards to prevent the misuse of behavior management techniques. Determine whether there are written procedures for documenting and monitoring management of resident behavior.*

2. *Ask child care staff to describe the acceptable and unacceptable methods for managing resident behavior and compare the methods with those outlined in written policy.*

3. *Review residents' records, communication logs, and emergency reports to determine the methods of managing resident behavior which have been used. Compare these with written policy. Is required documentation found in the resident's record?*

4. *Ask residents to describe the acceptable and unacceptable methods for managing resident behavior and compare the methods with those outlined in written policy. Ask residents when they received written information about the policies and procedures, include residents admitted by court order and emergency admission as well as planned admissions. Ask residents if they have ever observed a resident being physically restrained. Ask residents to describe the techniques.*

5. Review residents' records to determine when information was provided to legal guardians and placing agencies.

6. Determine whether substantive revisions have been made to policies governing management of resident behavior. If substantive revisions have been made, determine whether they were distributed within the required time frames.

7. Interview staff members responsible for managing resident behavior and determine what training they have received in managing resident behavior. Review training records to verify training.

8. Review restraint and serious incident reports to determine that staff involved have been trained in behavior management/support techniques.

12VAC35-46-950. Seclusion.

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

Interpretation of § 950: In §10 of these standards, seclusion means placing a resident in a room with the door secured in any manner that prevents the resident from opening it.

Compliance Determination for § 950:

1. Ask the administrator, child care staff and residents if residents are secluded.

2. If evidence from interviews, client records, or observation indicates that seclusion occurs, determine whether use is permitted by another applicable state regulation.

12VAC35-46-960. Seclusion room requirements.

A. The room used for seclusion shall meet the design requirements for buildings used for detention or seclusion of persons.

B. The seclusion room shall be at least six feet wide and six feet long with a minimum ceiling height of eight feet.

C. The seclusion room shall be free of all protrusions, sharp corners, hardware, fixtures, or other devices, that may cause injury to the occupant.

D. Windows in the seclusion room shall be constructed to minimize breakage and otherwise prevent the occupant from harming himself.

E. Light fixtures and other electrical receptacles in the seclusion room shall be recessed or so constructed as to prevent the occupant from harming himself. Light controls shall be located outside the seclusion room.

F. Doors to the seclusion room shall be at least 32 inches wide, shall open outward and shall contain observation view panels of transparent wire glass or its approved equivalent, not exceeding 120 square inches but of sufficient size for someone outside the door to see into all corners of the room.

G. The seclusion room shall contain only a mattress with a washable mattress covering designed to avoid damage by tearing.

H. The seclusion room shall maintain temperatures appropriate for the season.

I. All space in the seclusion room shall be visible through the locked door, either directly or by mirrors.

12VAC35-46-970. Education.

Intent of § 970: In accordance with the Code of Virginia § 22.1-254 relating to compulsory attendance, every parent, guardian, or other person in the Commonwealth having control or charge of any child who will have reached the fifth birthday on or before September 30 of any school year and who has not passed the eighteenth birthday shall, during the periods of each year the public schools are in session and for the same number of days and hours per day as the public schools, send such child to a public school or to a private, denominational, or parochial school or have such child taught by a tutor or teacher of qualifications prescribed by the Board of Education and approved by the division superintendent, or provide for home instruction of such child as described in § 22.1-254.1. (Note: home schooling is not allowed in residential facilities for children.)

§22.1-261 states that the division superintendent of the public school shall within five days of receiving reports from the Vital Records and Health Statistics and other reliable source shall make a list of the names of children who are not enrolled in any school and who are not exempt from school attendance,

The provision of an adequate education is a necessary service in a residential facility. Children in residential care frequently have some social, emotional or physical problem(s) affecting their ability to learn. It is imperative that the resident's educational program address the resident's individual needs and abilities through the service plan.

The facility that enrolls a child with a disability placed by a public agency shall provide services in accordance with the child's individualized educational program (IEP).

The instructional program should allow for 5 1/2 hours of instruction for a standard day or 990 teaching hours per year in accordance with the Regulations Establishing Standards for Accrediting Public Schools in Virginia. The facility must have documentation from the parent or physician if the child is receiving less instruction time.

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

Interpretation of § 970.A: Residents through age 18 must be enrolled in an appropriate school program which meets the resident's academic and special education needs. Children with disabilities are eligible for special education services aged 2 to 21, inclusive; age 22 if the resident has not reached his or her 22nd birthday on or before September 30. (Regulations Governing Special Education Programs for Children with Disabilities in Virginia.)

Children should be enrolled in school within five school business days upon acceptance for care in a facility. Ideally, the educational placement should be determined prior to admission. An enrollment form or any other documentation from the educational provider stating that the resident has been enrolled is acceptable documentation of the enrollment process. The provider shall provide documentation when the five day timeline cannot be met.

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

Interpretation of § 970.B: The facility shall ensure that each resident is provided a program of instruction that promotes individual student academic achievement at successive grade levels, that meet or exceed the knowledge and skills contained in the Virginia Standards of Learning for English, mathematics, science, and history/social science adopted by the Board of Education. Instruction shall be designed to accommodate each resident and meet the abilities, interest, educational and transitional needs of the residents.

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

Interpretation of § 970.C: This standard refers to the approval of private educational programs for children with disabilities as specified in Title 22.1 of the Code of Virginia. Such programs must be approved by the Department of Education.

The educational program of each school shall reflect the written philosophy of the school by implementing the stated objectives through methods, procedures and practices which reflect an understanding of and meet the applicable academic, vocational, therapeutic, recreational, and socialization needs of the residents. Educational programs for students with disabilities shall be conducted in accordance with appropriate regulations governing the education of children with disabilities approved and issued by the Board of Education.

Each student identified by an LEA (Local Education Agency) as eligible for special education and related services shall have an individualized education program (IEP) on file with the school.

Students not identified as such and those placed by parents shall have an individualized program plan (IPP).

Educational records of students shall be kept in accordance with regulations of the Board of Education. Guidelines for the management of student education records are outlined in,

Management of Student's Scholastic Record in the Public Schools of Virginia. This publication can be found on the Department of Education's web page at www.doe.virginia.gov.

The school program shall follow the Regulations Establishing Standards for Accrediting Public Schools in Virginia for conferring credits and diplomas to students seeking graduation from a Virginia public school.

Teachers must meet licensure requirements set forth in the current edition of the Virginia Licensure Regulations for School Personnel.

The Department will conduct a review of the education program using the educational module which contains requirements of applicable state and federal regulations.

D. When a child with a disability has been placed in a residential facility, the facility shall contact the division superintendent of the resident's home locality. Documentation of the contact with the resident's home school shall be kept in the resident's record.

Interpretation of § 970.D: The facility should contact the superintendent in the home locality and request the education records of the child including eligibility information and the current IEP. Facilities will have to obtain written consent from the legal guardian in order to discuss the information from the resident's education record with the education program's staff.

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

Interpretation of § 970.E: Teachers and other school personnel employed in programs which are not required by law to be certified must maintain standards of professional competence and be licensed by the Board of Education.

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

Compliance Determination for § 970:

1. *Ask the administrator where residents of compulsory school age attend school. All residents should be enrolled in either an appropriate public or private school program in the community or an approved residential school for children with disabilities. It is useful to obtain a list of residents with the place of school attendance indicated.*

2. *Review residents' records for a current report card, individualized education program (IEP), letter of expulsion/suspension or other correspondence from schools.*

3. When reviewing residents' records, determine which children have been identified as children with disabilities. The records of all children with disabilities must contain a current IEP. Is the child with disabilities receiving special education and related services according to the IEP?

4. Determine through record reviews and interviews if there is evidence that the facility assures that education is a fundamental and integral part of each resident's program at the facility. Facilities should not accept a child unless it is known that the educational needs of the child can be met. Immediately following admission to the facility, a child should be admitted to a school program.

5. Ask the administrator how each resident's educational placement is determined. If it is suspected that a resident might be in need of special education services, ask the administrator whether the resident has been referred to the local school division for a complete evaluation to determine eligibility for these services.

6. Review residents' service plans and progress reports for documentation of counseling and guidance related to the residents' educational programs. If residents attend public schools, how much contact does the facility have with the local schools? Interview staff to further determine: (a) Which person signs residents' papers and report cards? and (b) Who attends school meetings and conferences regarding individual residents?

7. If the facility operates a private school for children with disabilities, determine whether requirements have been met for the approval of private educational programs for children with disabilities as specified in Title 22.1 of the Code of Virginia.

8. Determine whether the school superintendent in the home locality of each child with a disability has been contacted in accordance with state and federal law.

9. Review written policies and procedures to ensure that the resident has adequate study time. Study time is in addition to the 5 ½ hour day.

12VAC35-46-980. Religion.

Intent of § 980: An individual, as guaranteed by the United States Constitution, has a right to follow his own conscience in matters of religion. Participation in religious practices must be a personal decision left to the discretion of the resident and the resident's family or legal guardian. Resident's come from a variety of religious backgrounds. Facilities should respect the religious beliefs of a resident who may have a different faith background than the sponsors of the facility and are encouraged to provide opportunities for that resident to practice his faith.

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

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

Interpretation of § 980.B: Facilities must let parents and placing agencies know prior to admission what their policies on religion are in order to avoid any misunderstanding after placement.

Policies may be handed to or mailed to individuals or agencies considering placement of a child. If the people involved will be visiting the facility during the admission phase, the written policies may be posted on a bulletin board or kept in a notebook to which they have access. The criteria may also be made available through such methods as inclusion in a brochure or a handbook.

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

Interpretation of § 980.C: Religious activities refer to any activity that involves the worship, teaching, or demonstration of any religion's beliefs. These may include organized church services, Bible study, prayer groups, and worship services held on or off the facilities' premises.

Webster's Dictionary defines "coerce" as "to enforce by force or threat." When one of the following practices is used to assure a resident's participation in religious activities, it constitutes "coercion":

1. *Ostracism (encouraged or fostered by staff);*
2. *Applying or threatening to apply negative consequences; or*
3. *Denial of privileges or service generally given to the resident.*

When any of the above methods is used to assure residents' participation in religious activities, the facility is in noncompliance with the standard.

Compliance Determination for § 980:

1. *Review the facility's written policies regarding the opportunities for residents to participate in religious practices.*

2. *Evaluate whether the policies clearly explain the religious training and experiences available to residents.*

3. *Ask the administrator how he makes the written criteria available to individuals and agencies seeking to place a child.*

4. *When a facility provides or arranges for residents' regular attendance at sessions of religious education or worship services, ask the administrator how a resident's decision not to participate is handled.*

5. *Review residents' records to determine whether coercion has been used to assure the participation.*

6. Ask residents if they are forced to participate in religious activities. Ask residents what consequences, if any, result from failure to participate in religious activities.

12VAC35-46-990. Recreation.

Intent of § 990: The intent of this section is to assure that residents are offered a safely planned program of varied activities that are appropriate for their capabilities and interests. A well planned recreation program provides the residents with the opportunity to develop skills in leadership, team work, sharing, etc.

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

1. Opportunities for individual and group activities;

2. Free time for residents to pursue personal interests that shall be in addition to a formal recreation program, except this subdivision does not apply to secure custody facilities;

3. Use of available community recreational resources and facilities, except this subdivision does not apply to secure custody facilities;

4. Scheduling of activities so that they do not conflict with meals, religious services, educational programs, or other regular events; and

5. Regularly scheduled indoor and outdoor recreational activities that are structured to develop skills and attitudes.

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

1. How activities will be directed and supervised by individuals knowledgeable in the safeguards required for the activities;

2. How residents are assessed for suitability for an activity and the supervision provided; and

3. How safeguards for water-related activities will be provided, including ensuring that a certified lifeguard supervises all swimming activities.

Interpretation for § 990.B: The life guard does not have to be a facility staff member. Life guards are certified for different swimming activities. Some lifeguards are certified to provide services at swimming pools while other life guards are certified to provide services for open water activities, such as swimming at the beach, in a lake or in a river. Providers will need to ensure that facility provided life guards are certified for the type of activity being conducted. The American Red Cross can provide additional information regarding life guards.

Providers should ensure that adequate supervision of residents is provided even when life guards are on duty.

Intent of § 990.C: Since residents involved in recreational activities are exposed to potential injuries, altercations and other dangers which puts them at risk, it is the intent of this standard that competent adult supervision is provided during facility sponsored recreational activities in order to minimize problems.

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

1. A supervision plan for the entire duration of the activity including awake and sleeping hours;

2. A plan for safekeeping and distribution of medication;

3. An overall emergency, safety, and communication plan for the activity including emergency numbers of facility administration;

4. Staff training and experience requirements for each activity;

5. Resident preparation for each activity;

6. A plan to ensure that all necessary equipment for the activity is in good repair and appropriate for the activity;

7. A trip schedule giving addresses and phone numbers of locations to be visited and how the location was chosen/evaluated;

8. A plan to evaluate residents' physical health throughout the activity and to ensure that the activity is conducted within the boundaries of the resident's capabilities, dignity, and respect for self-determination;

9. A plan to ensure that a certified life guard supervises all swimming activities in which residents participate; and

10. Documentation of any variations from trip plans and reason for the variation.

Interpretation of § 990.C: When determining the level and nature of supervision to be provided, the decision must be based on a consideration of the ages, developmental levels, interests, and needs of the residents as well as the type of activities involved.

This section only requires that the supervision be provided by adults who have sufficient knowledge of the recreational activities being conducted to ensure a safe environment for the participating children. The successful completion of a recognized program of training or education is one verifiable manner of documenting that a supervisor has the necessary knowledge. Knowledge may also be gained through previous life or work experiences. It is the responsibility

of facility administrators to ensure that supervisors have the necessary knowledge to ensure a safe and secure environment for children.

In determining the nature and level of supervision to be provided, facility administrators are encouraged to consider potential liability issues related to the activity. In some instances, the use of supervisors who have completed a specific course of training may be judicious even though not required by this section.

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

Interpretation for § 990.D: Blanket permission for all out-of-state or out-of-country recreational trips at the time of admission is not acceptable. Written permission must be obtained before each trip.

Compliance Determination for § 990:

1. Review the written description of the recreation program.

2. Evaluate the recreation program in light of information previously gathered about the ages and capabilities of the residents. The recreation program should include free time and diversional activities as well as times for activities that support the service plan. Some residents from unstructured backgrounds may have difficulty dealing with use of free time so it is important that a facility has a well thought out recreation program with adult guidance and supervision. It is just as important that there be some periods when residents can relax, amuse themselves, be creative, or engage in simple social exchanges.

3. Review the components of the recreational program and ask about direction and supervision of each activity. This includes indoor, outdoor (both on and off the premises) and field trip activities.

4. Ask the administrator if the facility has taken any overnight recreational trips and review applicable trip plans to ensure that all requirements have been addressed.

5. Assess from personnel records and discussions whether persons providing supervision are knowledgeable about the activity being supervised (e.g. water safety, boating, swimming, first aid).

12VAC35-46-1000. Community relationships.

Intent of § 1000: A primary goal of residential care is to enable the residents to function successfully when they return to the community. Living in a children's residential facility can be an isolating experience; therefore, efforts should be made to provide the residents opportunities for interaction with community groups and resources.

A. Opportunities shall be provided for the residents to participate in activities and to utilize resources in the community.

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

Interpretation of § 1000.B: The reliability of the people involved in providing these experiences and the appropriateness of the activity itself must be evaluated to determine if participation would be in the residents' best interest.

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

Interpretation of §1000.C: The name of the community liaison should be submitted on the initial or renewal application form and updated whenever there is a change. Regulators will direct neighbors and others with questions about the facility to the community liaison.

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

Interpretation of § 1000.D: Good neighbor policies and procedures should address such things as home and yard maintenance, outdoor activities, parking, trash collection, noise levels, appropriate interactions with neighbors, and participation in neighborhood associations.

Compliance Determination for § 1000:

1. *Discuss with the administrator, child care staff and residents, opportunities for participation in community activities.*

2. *Review the written policies and procedures to ensure that all requirements are met.*

3. *Review community-sponsored programs offered to residents. Evaluate the appropriateness of the activities. Interview the administrator to determine how the reliability of the people providing these activities is assessed.*

4. *Determining whether the opportunities offered are consistent with the type and volume of activities available in the community.*

5. *Review personnel record.*

12VAC35-46-1010. Clothing.

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

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

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

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

Interpretation of § 1010.D: Personal clothing refers to any clothing provided to a resident for permanent use. This does not include clothing, such as that assigned for recreational activities, vocational classes or kitchen duty. An approved facility uniform may also be acceptable.

Compliance Determination for § 1010:

1. *Observe personal supplies of clothing and shoes for residents and evaluate for adequacy of supply and appropriateness of style.*

2. *Ask child care staff what criteria are used to determine adequacy of supply and appropriateness of style.*

3. *Ask residents and child care staff how residents participate in the selection of clothing.*

4. *Ask residents what happens if clothes or shoes need repair.*

5. *Observe condition of clothes and shoes and adequacy of clothes.*

6. *Review discharge procedures for any restrictions that may be made regarding personal clothing.*

7. *Ask staff how they assure that each resident takes his personal clothing at discharge.*

12VAC35-46-1020. Allowances and spending money.

A. The provider shall provide opportunities appropriate to the ages and developmental levels of the residents for learning the value and use of money.

B. There shall be a written policy regarding allowances that shall be made available to legal guardians at the time of admission.

Interpretation of 1020.B: allowances are included in the rate paid for foster children. The provision or assurance of an allowance is encouraged. Many residents will not have experience managing money if they do not receive an allowance.

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

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

Interpretation of § 1020.D Payment for malicious damage may be assessed from resident's allowances. Fining residents for other behaviors will require a variance to this standard. Fining should also be addressed in the behavior intervention policies.

Compliance Determination for § 1020:

1. *Ask staff and residents how residents acquire money and what opportunities exist to learn its value.*
2. *Determine what opportunities residents have for use of money.*
3. *Ask staff and residents how money is used.*
4. *Review the written policy on allowances and ask how the policy is made available to parents or legal guardians.*
5. *Determine whether residents have their own money.*
6. *Ask how the money is kept safely.*
7. *Review the record keeping system used to account for residents' money.*

12VAC35-46-1030. Work and employment.

Intent of § 1030: In-house chores, work assignments, and employment can provide positive experiences that teach residents responsibility and the value of money. There is, however, a potential for abuse if residents are required to do work that is physically or emotionally too strenuous. Because individuals in the community and in the institution itself may seek to take advantage of residents, it is important that all work for residents be evaluated for appropriateness by a responsible staff person.

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

Interpretation of § 1030.A: "Chore" refers to an in-house job assignment. The dictionary defines it as "the regular or daily light work of household or farm."

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

C. Work assignments or employment outside the facility, including reasonable rates of pay, shall be approved by the program director with the knowledge and consent of the legal guardian.

Interpretation of § 1030.C: Work assignments can take various forms, such as residents assisting, with or without pay, with a town fair, picking up litter as part of a clean-up campaign, raking leaves or shoveling snow. In both work assignments and employment, the program director should evaluate the appropriateness of the work and the fairness of the pay received.

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

Interpretation of § 1030.D: This standard reinforces the facility's responsibility to ensure that the work and pay of residents comply with any applicable laws governing wages and hours and any laws governing labor and employment of children, such as current minimum wages, work permits and type of employment permitted. If there is any doubt about such compliance, the facility should be required to consult the appropriate federal and state agencies about their work arrangements for children and to seek written documentation of the compliance of those arrangements with applicable laws. Call the Department of Labor and Industry for questions regarding fair rates of pay.

Compliance Determination for § 1030:

1. *Ask what chores specific residents are required to do.*

2. *Determine the appropriateness of the chores by:*

   - *Reviewing the records and service plans of individual residents.*
   - *Reviewing chore lists and work schedules, if available.*
   - *Asking staff what criteria were used in selecting chores for specific residents.*
   - *Asking residents what chores they do and whether they are fair assignments.*

3. *Review information gathered when evaluating the daily program of care as to time allotted for chores.*

4. *Ask staff and residents what happens if a resident does not do a chore satisfactorily in the time allowed.*

5. *Determine what staff member carries responsibility for directing the work program and ask that person what criteria are used in evaluating assignments and employment.*

6. Ask the staff member how the legal guardian is made aware of work assignments and employment and how consent is obtained.

7. Review documentation of the program director's approval of work assignments outside of the facility or employment.

8. Review facility practices regarding payment of any required minimum wage for hours of employment of residents inside or outside the facility. Assess the appropriateness of the residents' ages, work performed, job hazards and whether work permits are required.

9. Verify that residents' earnings accrue to their benefit.

10. Discuss with residents how their earnings are managed.

12VAC35-46-1040. Visitation at the facility and to the resident's home.

Intent of § 1040: Because past ties can be weakened through separation, the facility must make efforts to facilitate visits to the resident's home and visits by family and friends at the facility when appropriate. To create as normal a life as possible, a resident should be able to have new friends and associates visit with him at the facility. Residents will need the involvement of facility staff to encourage contacts with family.

The person or agency placing the resident in the facility has the right and responsibility to visit the resident.

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

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

Compliance Determination for § 1040:

1. Review written visitation policies and procedures and assess the flexibility and reasonableness of the visitation hours.

2. Ask the administrator and residents how the written visitation policies and procedures are made available to the parents, legal guardians, other interested persons important to the resident and resident.

3. Ask the administrator if the facility has received permission from the legal guardian and/or the placing agency to allow visitation with family members or other interested persons.

12VAC35-46-1050. Resident visitation at the homes of staff.

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

Interpretation of § 1050: Facilities who allow staff to take children to the staff's home for a visit should consider the liability issues with the policy and should consider consulting their attorneys before the policy is implemented. Should visitation become a regular occurrence or for an extended duration the placing agency may require a home study.

12VAC35-46-1060. Vehicles and power equipment.

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

1. Vehicle safety and maintenance;

2. Licensure of vehicles;

3. Licensure of drivers; and

4. Child passenger safety, including requiring children to wear appropriate seat belts or restraints for the vehicle in which they are being transported.

B. There shall be written safety rules for transportation of residents appropriate to the population served that shall include taking head counts at each stop.

Interpretation of § 1060.B: Each stop means each place where individuals get on and off the vehicle.

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

Interpretation of § 1060.C: Written safety rules are necessary for power equipment which presents a danger to children. Such equipment may include, but is not necessarily limited to, elevators, dumbwaiters, exhaust and ventilation systems, lawn mowers, and chain saws.

Compliance Determination for § 1060:

1. Review the license(s) or list of licenses for vehicles and drivers and discuss with the administrator the maintenance of vehicles.

2. Review written safety rules for transportation of children including the procedures for taking head counts. Interview staff and residents regarding the implementation of the safety rules.

3. Review the written safety rules for transportation and safety rules for use and maintenance of power equipment.

12VAC35-46-1070. Serious incident reports.

Intent of § 1070: The intent of 1070 is to assure timely notification of any serious incident to all responsible parties. Section 1070.B is intended to assure the incident and its reporting are thoroughly documented.

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

Interpretation for § 1070.A: "Serious incidents" include accidents or injuries to the resident requiring medical attention other than minor first aid, unauthorized absences from the facility, allegations of child abuse or neglect, serious infractions of facility or school rules, suspected drug abuse, accusations of criminal conduct, serious illnesses, serious altercations with staff or other residents, or any other event or incident involving the resident which may reasonably impact on the rights and responsibilities of the resident's legal guardian.

The Comprehensive Service Act contract may also indicate what the placing agency considers to be a serious incident.

B. The provider shall document the following:

1. The date and time the incident occurred;

2. A brief description of the incident;

3. The action taken as a result of the incident;

4. The name of the person who completed the report;

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

6. The name of the person to whom the report was made.

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

1. The date and time the incident occurred;

2. A brief description of the incident;

3. The action taken as a result of the incident;

4. The name of the person who completed the report;

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

6. The name of the person to whom the report was made.

Interpretation of § 1070: The term "parent/legal guardian/placing agency" means the person, agency, or institution that holds legal custody of the resident. For temporary care facilities the term "parent/legal guardian/placing agency" means the "persons or agencies to contact in case of emergency" as documented on the face sheet in the resident's record.

Please refer to § 1110 for situations that require notification to the licensing authority and other appropriate officials and to § 1080 for requirements to report child abuse and neglect.

The facility may elect to notify other persons having significant interest in the child (e.g. biological parent or non-custodial agency financially responsible for the resident's care). Prior to notifying other parties, the facility should determine whether there (i) is an order from a court of competent jurisdiction prohibiting notification or (ii) are legitimate treatment needs which make notification unadvisable.

The legal guardian has the right to be informed of any incident which may indicate that the resident's safety is in jeopardy; additional treatment, service or supervision are needed; or that an alternative placement may be needed.

The facility should also refer to any additional regulations of the licensing authority; e.g. Human Rights Regulations.

Documentation that the facility appropriately handled such incidents may protect the facility and its staff from unfounded or unwarranted accusations.

Compliance Determination for § 1070:

1. Talk with the facility administrator and staff members who have responsibility for compliance with these sections about the means they use to ensure compliance. This may include questions about the factors or the criteria they use to make the determination that the incident is serious enough to warrant a report to the legal guardian and the procedures they utilize in making the report.

2. Confer with the administrator and staff members about methods they use to ensure that the report is made within the appropriate time frame. When attempts to contact the responsible party within 24 hours are not successful, the unsuccessful efforts must be documented. The agency or court must be notified by mail within 24 hours or by telephone or in person on the first working day following the incident, accident or injury.

Documentation of these actions shall constitute compliance with § 1070.A.

3. Review a sample of records of residents involved in serious incidents, accidents, overnight absences without permission, any other unexplained absences, or who have run away, to determine whether the records include all of the elements required by § 1070.B.

D. In the case of a serious injury or death, the report shall be made on forms approved by the department.

12VAC35-46-1080. Suspected child abuse or neglect.

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

1. Handling accusations against staff; and

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

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

Interpretation of § 1080: The Code of Virginia § 63.2 -100 defines an abused or neglected child as any child less than 18 years of age whose parents or other person responsible for his care:

1. Creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions;

2. Neglects or refuses to provide care necessary for the child's health;

3. Abandons the child;

4. Commits or allows to be committed sexual exploitation or any sexual act upon a child in violation of the law; or

5. Leaves the child without care due to an unreasonable absence or due to a mental or physical incapacity.

Failure to report is a criminal offense. (§ 63.1-248.3 of the Code of Virginia.)

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

Interpretation for § 1080.C: The required information shall be included in the resident's record even in cases where child protective services does not accept the case.

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

1. The date and time the suspected abuse or neglect occurred;

2. A description of the suspected abuse or neglect;

3. Action taken as a result of the suspected abuse or neglect; and

4. The name of the person to whom the report was made at the local child protective services unit.

Compliance Determination for § 1080:

1. Talk with the administrator and staff members about the procedures that are used in a case of suspected child abuse or neglect, including accusations against staff. If there has not been an instance of suspected child abuse or neglect, focus on what would happen should there be an instance of child abuse or neglect.

2. Discussion should include questions about which local department of public welfare/social services would be notified, how to ensure that the local agency is notified as required by the Code of Virginia, and the facility's procedures for internal reporting and notifying the local agency and notifying the Department and either the resident's parents or legal guardian, or both, as appropriate, as required by 960.C.

3. Review the record(s) of resident(s) suspected to have been abused or neglected to determine whether the record(s) contains the required elements.

12VAC35-46-1090. Grievance procedures.

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

1. Be written in clear and simple language;

2. Be communicated to the residents in an age or developmentally appropriate manner;

3. Be posted in an area easily accessible to residents and their parents and legal guardians;

4. Ensure that any grievance shall be investigated by an objective employee who is not the subject of the grievance; and

5. Require continuous monitoring by the provider of any grievance to assure there is no retaliation or threat of retaliation against the child.

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

Interpretation for § 1090: Posted means displayed on the wall, bulletin board, etc. which is easily seen or a notice prominently displayed telling where the grievance procedure can be obtained.

Compliance Determination for § 1090:

1. *Review the grievance policy and procedures.*

2. *Discuss with the appropriate staff their awareness of the grievance procedures and what is covered.*

3. *Ask residents how they were informed of the grievance procedures.*

4. *Observe how the procedures are made accessible to parents and residents.*

5. *Review documentation from a sample of grievances.*

PART V DISASTER OR EMERGENCY PLANNING

12VAC35-46-1100. Disaster or emergency planning.

The facility is required to have written procedures to follow in emergencies. It is also required that these plans be known by staff and, as appropriate, residents. It is advisable that the facility develop its emergency plans with the assistance of state or local public safety authorities.

12VAC35-46-1110. Emergency and evacuation procedures.

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

1. Documentation of contact with the local emergency coordinator to determine (i) local disaster risks; (ii) communitywide plans to address different disasters and emergency situations; and (iii) assistance, if any, that the local emergency management office will provide to the facility in an emergency;

2. Analysis of the provider's capabilities and potential hazards, including natural disasters, severe weather, fire, flooding, work place violence or terrorism, missing persons, severe injuries, or other emergencies that would disrupt the normal course of service delivery;

3. Written emergency management policies outlining specific responsibilities for provision of administrative direction and management of response activities, coordination of logistics during the emergency, communications, life safety of employees, contractors, students/intern, volunteers, visitors and residents, property protection, community outreach, and recovery and restoration;

4. Written emergency response procedures for assessing the situation; protecting residents, employees, contractors, students/interns, volunteers, visitors, equipment, and vital records; and restoring services. Emergency response procedures shall address:

a. Communicating with employees, contractors, and community responders;

b. Warning and notification of residents;

c. Providing emergency access to secure areas and opening locked doors;

d. Conducting evacuations to emergency shelters or alternative sites and accounting for all residents;

e. Relocating residents, if necessary;

f. Notifying family members, if appropriate, and legal guardians;

g. Alerting emergency personnel and sounding alarms; and

h. Locating and shutting off utilities when necessary;

5. Supporting documents that would be needed in an emergency, including emergency call lists, building and site maps necessary to shut off utilities, designated escape routes, and list of major resources such as local emergency shelters; and

6. Schedule for testing the implementation of the plan and conducting emergency preparedness drills.

Interpretation of 1110.A.1: It is not required that the local coordinator of the Virginia Department of Emergency Management sign-off on the emergency plan, but the local coordinator must be contacted and evidence of this contact must be maintained. The Department of Emergency Management has model forms and policies on its web site, www.vaemergency.com.

Each facility should have plans for sheltering in place, evacuating and relocating. The facility should also have plans for pandemics and epidemics.

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

1. Alerting emergency personnel and sounding alarms;

2. Implementing evacuation procedures, including evacuation of residents with special needs (i.e., deaf, blind, nonambulatory);

3. Using, maintaining, and operating emergency equipment;

4. Accessing emergency information for residents including medical information; and

5. Utilizing community support services.

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

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

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

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

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

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

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

J. Evacuation drills shall include, at a minimum:

1. Sounding of emergency alarms;

2. Practice in evacuating buildings;

3. Practice in alerting emergency authorities;

4. Simulated use of emergency equipment; and

5. Practice in securing resident emergency information.

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

Interpretation of § 1110. J-K: It is not required that staff awaken and evacuate sleeping children at night. Rather, the standard requires at a minimum that the staff quietly simulate the various duties they would carry out should there be an emergency. This would include simulating the activation of the alarm; simulating alerting emergency authorities; dispersing to evacuation duty stations; simulating the opening and closing of appropriate doors, e.g. having appropriate keys available, testing locks, etc.; and simulating other appropriate staff activities as required by the emergency plan. Simulated drills must be documented in accordance with §1110.L-M.

L. A record shall be maintained for each evacuation drill and shall include the following:

1. Buildings in which the drill was conducted;

2. Date and time of drill;

3. Amount of time to evacuate the buildings;

4. Specific problems encountered;

5. Staff tasks completed including:

a. Head count; and

b. Practice in notifying emergency authorities.

6. The name of the staff members responsible for conducting and documenting the drill and preparing the record.

M. The record for each evacuation drill shall be retained for three years after the drill, unless a longer retention period is required by applicable law or regulation.

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

Interpretation of § 1110.N: This standard requires the designation of a single individual to be responsible for the evacuation drill program. In large facilities with multiple cottages it may be appropriate to appoint one or more staff to conduct, supervise, and document individual evacuation drills. § 1110.N requires that a single person monitor those activities and take corrective action when appropriate.

Compliance Determination for § 1110:

1. *Review the written policies and procedures to ensure that all the requirements are addressed.*

2. *Review the record of evacuation drills. Note the dates and times when the drills were held. Determine whether drills were appropriately conducted and documented.*

3. *If there are questions or concerns about the drills, ask the administrator, staff members or children about the frequency with which drills are held and the procedures followed.*

4. *Verify that one person is assigned responsibility for the evacuation drill program and that this person performs the duties outlined in § 1110.N.*

5. *Talk with this designated staff person about his responsibilities in implementing the facility's safety program.*

PART VI SPECIAL PROGRAMS

12VAC35-46-1120. Independent living programs.

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

1. Money management and consumer awareness;

2. Food management;

3. Personal appearance;

4. Social skills;

5. Health/sexuality;

6. Housekeeping;

7. Transportation;

8. Educational planning/career planning;

9. Job-seeking skills;

10. Job maintenance skills;

11. Emergency and safety skills;

12. Knowledge of community resources;

13. Interpersonal skills/social relationships;

14. Legal skills;

15. Leisure activities; and

16. Housing.

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

1. Money management and consumer awareness;

2. Food management;

3. Personal appearance;

4. Social skills;

5. Health/sexuality;

6. Housekeeping;

7. Transportation;

8. Educational planning/career planning;

9. Job-seeking skills;

10. Job maintenance skills;

11. Emergency and safety skills;

12. Knowledge of community resources;

13. Interpersonal skills/social relationships;

14. Legal skills;

15. Leisure activities; and

16. Housing.

C. The resident's individualized service plan shall, in addition to the requirements found in 12VAC35-105-750, address each of the following areas, as applicable:

1. Money management and consumer awareness;

2. Food management;

3. Personal appearance;

4. Social skills;

5. Health/sexuality;

6. Housekeeping;

7. Transportation;

8. Educational planning/career planning;

9. Job-seeking skills;

10. Job maintenance skills;

11. Emergency and safety skills;

12. Knowledge of community resources;

13. Interpersonal skills/social relationships;

14. Legal skills;

15. Leisure activities; and

16. Housing.

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

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

1. Training for the resident in self administration of medication and recognition of side effects;

2. Method for storage and safekeeping of medication;

3. Method for obtaining approval for the resident to self administer medication from a person authorized by law to prescribe medication; and

4. Method for documenting the administration of medication.

F. Each independent living program shall develop and implement written policies and procedures that ensure that each resident is receiving adequate nutrition as required in 12VAC35-46-860.

12VAC35-46-1130. Mother/baby programs.

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

1. Responsibilities of mothers regarding the child;

2. Child development including age-appropriate behavior for each stage of development;

3. Appropriate behavioral interventions for infants and toddlers;

4. Basic infant and toddler care including but not limited to nutritional needs, feeding procedures, bathing techniques; and

5. Safety issues for infants and toddlers.

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

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

D. In addition to the requirements of 12VAC35-46-710 the application for admission for the adolescent's child must include:

1. The placement history of the child;

2. The developmental milestones of the child; and

3. The nutritional needs of the child.

E. In addition to the requirements of 12VAC35-46-730, the face sheet for adolescent's child shall also include:

1. Type of delivery;

2. Weight and length at birth;

3. Any medications or allergies; and

4. Name and address, if known, of the biological father.

F. A combined service plan following the requirements of 12VAC35-46-750 must be written for the adolescent mother and her child within 30 days of the admission of the adolescent's child.

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

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

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

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

1. What a child 18 months or younger is eating;

2. How much a child 18 months or younger is eating; and

3. The response to newly introduced foods of the child 18 months or younger.

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

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

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

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

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

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

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

1. Obtaining health care;

2. Ensuring follow-up care is provided;

3. Ensuring adolescent mothers administer to their children only prescription and nonprescription medication authorized by a health care professional licensed to prescribe medication; and

4. Medication administration.

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

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

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

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

V. Infant walkers shall not be used.

W. Adolescent mothers and their babies may share a bedroom as allowed by 12VAC35-46-480, but shall not share a room with other adolescents or their children.

X. Pregnant adolescents may share a room as allowed by 12VAC35-46-480.

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

1. Electrocution;

2. Falling down steps or ramps or gaining access to balconies, porches, or elevated areas; and

3. Poisons, including poisonous plants.

12VAC35-46-1140. Campsite programs or adventure activities.

Interpretation of § 1140: An occasional camping trip sponsored by the facility, as part of a recreational program, for example, is considered an excursion. Standards on primitive campsites, § 1080, do not apply unless the camping is considered a wilderness/adventure activity.

Primitive camping refers to a type of program in which facilities and activities are as closely related to nature as possible. The primitive campsites are left essentially in their natural state, and living and program quarters and activities are integrated into the natural environment. Few alterations or developments are made to the natural environment beyond measures necessary to assure the health, safety and well-being of the residents.

An experience curriculum integrates real living needs and problems into the program design and gives residents opportunities to participate in a wide range of activities, to test out their skills in relation to life situations, and to learn while doing.

Wilderness/adventure activities include rafting, kayaking, using ropes courses, rock climbing other than on an artificial façade, canoeing, and primitive camping and hiking.

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

1. Staff training and experience requirements for each activity;

2. Resident training and experience requirements for each activity;

3. Specific staff-to-resident ratio and supervision plan appropriate for each activity; including sleeping arrangements and supervision during night time hours;

4. Plans to evaluate and document each participant's physical health throughout the activity;

5. Preparation and planning needed for each activity and time frames;

6. Arrangement, maintenance, and inspection of activity areas;

7. A plan to ensure that any equipment and gear that is to be used in connection with a specified wilderness/adventure activity is appropriate to the activity, certified if required, in good repair, in operable condition, and age and body size appropriate;

8. Plans to ensure that all ropes and paraphernalia used in connection with rope rock climbing, rappelling, high and low ropes courses, or other adventure activities in which ropes are used are approved annually by an appropriate certifying organization, and have been inspected by staff responsible for supervising the adventure activity before engaging residents in the activity;

9. Plans to ensure that all participants are appropriately equipped, clothed, and wearing safety gear, such as a helmet, goggles, safety belt, life jacket, or a flotation device, that is appropriate to the adventure activity in which the resident is engaged;

10. Plans for food and water supplies and management of these resources;

11. Plans for the safekeeping and distribution of medication;

12. Guidelines to ensure that participation is conducted within the boundaries of the resident's capabilities, dignity, and respect for self-determination;

13. Overall emergency, safety, and communication plans for each activity including rescue procedures, frequency of drills, resident accountability, prompt evacuation, and notification of outside emergency services; and

14. Review of trip plans by the trip coordinator.

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

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

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

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

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

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

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

1. Medical release forms including pertinent medical information on the trip participants;

2. Phone numbers for administrative staff and emergency personnel;

3. Daily trip logs;

4. Incident reports;

5. Swimming proficiency list if trip is near water;

6. Daily logs;

7. Maps of area covered by the trip; and

8. Daily plans.

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

1. A statement notifying the doctor of the types of activities the resident will be participating in; and

2. A statement signed by the doctor stating the individual's health does not prevent him from participating in the described activities.

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

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

Interpretation of § 1140.H: A wilderness first aid course is different than a wilderness first responder course. The Red Cross offers wilderness first aid courses and recommends this course when it will take longer than 10 minutes for emergency help to reach the victim. Providers should direct their questions about wilderness/adventure activities to their regulator. In general, if emergency assistance is readily available and staff has been trained in first aid, wilderness first aid will not be necessary. However, if the activity takes place in areas where emergency assistance can not easily reach the group, wilderness first aid is required. This would include areas where communication is limited.

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

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

1. A whistle or other audible signal device; and

2. A lifesaving throwing device.

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

Interpretation of § 1140.K: "Each person" includes all residents and overnight staff persons.

Compliance Determination for § 1140.K:
Count the number of beds, bunks and cots and compare the total with the number of persons residing in the camp.

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

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

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

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

Compliance Determination for § 1140.O:

1. *Ask residents and staff whether their bedding, given the heating provided, was adequate to ensure their protection and comfort in the coldest weather.*

2. *Evaluate the bedding for adequacy.*

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

Compliance Determination for § 1140.P:
If sleeping bags are used, inspect and confirm that they are rated for 0º F and appear to be made of fiberfill. If doubt exists, ask for literature/warranties/evidence of temperature rating and type of filling.

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

Interpretation of § 1140.Q: "Linens" refer to bed linens (e.g., sheets, pillow cases, bed rolls, etc.)

Compliance Determination for § 1140.Q:

1. *Observe the storage area(s) where linens are kept, noting whether there are enough clean linens so that they can be changed at least once a week and that there will still be an adequate supply available for emergencies.*

2. *Observe the linens in use to determine whether they appear to be relatively clean.*

3. *Talk with the administrator about how he assures compliance with this standard. If laundry is done at the camp, ask how frequently linens are laundered. If laundry is not done at the camp, ask what method is used to provide an adequate supply of linens.*

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

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

T. Each resident shall have adequate personal storage area.

Compliance Determination for § 1140.R-T:

1. *Observe personal supplies of clothing for residents and evaluate for adequacy of supply and suitability for outdoor living.*

2. *Observe residents' shoes/boots for sturdiness and water resistance.*

3. *Ask residents and child care staff about the adequacy of supply of clean clothing and outdoor shoes.*

4. *Observe storage areas and determine the adequacy of storage space for residents' personal items.*

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

Compliance Determination for § 1140.U:

1. *Observe the presence of an approved 2A 10BC fire extinguisher immediately adjacent to the kitchen or food preparation area.*

2. *Observe the presence of approved 2A 10BC fire extinguishers within 75 feet of combustion-type heating devices and campfires.*

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

Interpretation of § 1140.V: Electric lighting and battery powered flashlights and lanterns are acceptable lighting sources. Kerosene lanterns or hurricane lamps are also examples of acceptable lighting, as long as the lanterns are properly cleaned and maintained. Candles are not a safe lighting source.

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

Interpretation of § 1140.W: Residents may carry flashlights or lanterns from one area of the campsite to another. Permanent lighting fixtures do not need to be installed along walkways.

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

Interpretation of § 1140.X: Examples of sleeping areas include tents, hogans, cabins, and lean-to's. Residents and staff may not share the same sleeping bag, cot, bed or mattress.

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

Compliance Determination for § 1140.V-Y:

1. *Observe the lighting sources used at the campsite. If kerosene lanterns or hurricane lamps are used, determine if they are clean and properly maintained. Look for leaks from the lanterns, that the lantern is properly capped, and that globes are not cracked or broken.*

2. *Discuss with staff and residents how lighting is provided in different areas of the campgrounds, including walkways, and the procedures for properly maintaining lighting sources.*

3. *Observe sleeping areas and determine where staff and residents sleep.*

4. *Ask staff and residents where they sleep.*

5. *Ask staff and residents how they communicate with others outside of the campsite.*

6. *Observe the communication equipment used and verify it is in working order.*

DOCUMENTS INCORPORATED BY REFERENCE (12VAC35-46)

Report of Tuberculosis Screening, Virginia Department of Health, http://www.vdh.virginia.gov/epidemiology/DiseasePrevention/Programs/Tuberculosis/Forms/documents/Form2.pdf.

U.S. Department of Health and Human Services and U.S. Department of Agriculture Dietary Guidelines for Americans, 6th Edition, January 2005, U.S. Government Printing Office, Washington, D.C.