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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; and 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.

Stricken language in subdivision D.1 to comply with Registrar's Style Guide

The stricken language in subsection D 1 is a confusing requirement to providers as they are unsure of what type of information to submit: business references or personal references. There is confusion who the references are for when the provider is a larger provider and the department does not have the resources to check these references.

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<p>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.</p> <p>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.</p> <p>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.</p>	<p>Striking this language reduces administrative burden on providers operated by state or local governments as the funding for those entities is already public. The remaining language still requires the provider to handle funds responsibly and allow DBHDS to cite when necessary.</p>

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<p>12VAC35-46-80. Written corrective action plans.</p> <p>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.</p> <p>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.</p> <p>C. The corrective action plan shall include a:</p> <ol style="list-style-type: none"> 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; <u>and</u> 2. Date of completion for each action; and 3. Signature of the person responsible for oversight of the implementation of the pledged corrective action. <p>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.</p> <p>E. A corrective action plan shall be approved by the department. Upon receipt of the corrective action plan, the department shall review the plan and determine whether the plan is approved or not approved. 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.</p>	<p>Subsection C 3 edits are made as the electronic CONNECT process makes this requirement for a signature unnecessary. It is only necessary to know who is responsible. This allows someone else to enter the information in the system.</p> <p>Subsection E edits for clarity. Existing language stricken because it suggests the department is required to approve the plan as submitted. Inserted language from analogous section in Chapter 105.</p>

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<p>12VAC35-46-110. Modification.</p> <p>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.</p> <p>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.</p> <p>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.</p>	<p>The requirement in subsection B is arbitrary and not directly related to a decision to approve or disapprove a service modification.</p>
<p>12VAC35-46-170. Governing body. (Repealed.)</p> <p>A. The provider shall clearly identify the corporation, association, partnership, individual, or public agency that is the licensee.</p> <p>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.</p>	<p>Providers are required to submit such information to the State Corporation Commission. (With the exception of sole proprietors doing business under their own names. Only sole proprietors operating under an assumed or fictitious DBA name are required to register with the SCC.)</p>
<p>12VAC35-46-180. Responsibilities of the provider.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>	<p>It is the provider's responsibility to ensure appropriate administrative organization.</p> <p>Target populations and programs are in the service description section (20); therefore, this is redundant.</p>

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<p>12VAC35-46-190. Fiscal accountability.</p> <p>A. Facilities operated by corporations, unincorporated organizations or associations, individuals, or partnerships shall prepare at the end of each fiscal year:</p> <ol style="list-style-type: none"> 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. <p>B. There shall be a system of financial recordkeeping that shows a separation of the facility's accounts from all other records.</p> <p>C. The provider shall develop and implement written policies and procedures that address the day-to-day handling of facility funds <u>including internal controls to minimize the risk of theft or embezzlement. There shall be a system of financial recordkeeping that shows a separation of the facility's accounts from all other records.</u> to include:</p> <ol style="list-style-type: none"> 1. Handling of deposits; 2. Writing of checks; and 3. Handling of petty cash. 	<p>This language does not contribute to individual health, safety, and welfare, nor does DBHDS have the staff resources to analyze the information in a meaningful way. The remaining language still requires the provider to handle funds responsibly and allow DBHDS to cite when necessary.</p> <p>Edits are for streamlining and clarity; also, added internal control language from Ch. 105 to give some context for appropriate handling.</p>
<p>12VAC35-46-200. Insurance.</p> <p>A. The provider shall maintain liability insurance covering the premises and the facility's operations.</p> <p>B. The provider shall provide documentation that all vehicles used to transport residents are insured, including vehicles owned by staff.</p> <p>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.</p>	<p>As stated in previous sections, this is redundant of other requirements.</p>

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<p>12VAC35-46-220. Weapons.</p> <p>The provider shall develop and implement a written policies and procedures governing the possession and use of firearms, pellet guns, air guns, and other weapons on the facility's premises and during facility-related activities. The policy shall provide that <u>prohibiting</u> firearms, pellet guns, air guns, or other weapons shall be permitted on the premises or at facility-sponsored activities unless the weapons are:</p> <ol style="list-style-type: none"> 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. 	<p>These amendments are intended to streamline language and reduce redundancy.</p>
<p>12VAC35-46-230. Relationship to the department.</p> <p>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.</p> <p>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.</p>	<p>This eliminates the need for an information modification that, in most cases, DBHDS does not need to determine if a provider is complying with the regulations.</p>

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<p>12VAC35-46-250. Health information.</p> <p>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.</p> <p>B. Tuberculosis evaluation.</p> <p>4. At the time of hire or residency at the facility, each individual shall submit the results of a <u>tuberculosis</u> 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.</p> <p>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.</p>	<p>This change was suggested by the Virginia Department of Health subject matter experts as it is no longer necessary due to reduction in disease prevalence.</p>
<p>12VAC35-46-270. Qualifications.</p> <p>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.</p> <p>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:</p> <ol style="list-style-type: none"> 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. <p>C. When services or consultations are obtained on a contractual basis they shall be provided by professionally qualified personnel.</p>	<p>The grandfathering language in subsection B from over 15 years ago seem to tie to a comprehensive regulatory revision that went into effect in December 2007. The language is obsolete.</p> <p>The language in subsection C is not needed as subsection A is all encompassing.</p>

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<p>12VAC35-46-280. Job descriptions.</p> <p>A. There shall be a written job description for each position that, at a minimum, includes the:</p> <ol style="list-style-type: none"> 1. Job title; 2. Duties and responsibilities of the incumbent ; <u>and</u> 3. Job title of the immediate supervisor; and 4. Minimum education, experience, knowledge, skills, and abilities required for entry level performance of the job. <p>B. A copy of the job description shall be given to each person assigned to a position at the time of employment or assignment.</p>	<p>These amendments streamline language (e.g., not all positions already have an incumbent in the role) and remove unnecessary requirements.</p>

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<p>12VAC35-46-300. Personnel records.</p> <p>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.</p> <p>B. The records of each employee shall include:</p> <ol style="list-style-type: none"> 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 <u>, including dates of employment for each position held and separation ;</u> 3. Written references or notations of oral references <u>Professional references ;</u> 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 <u>7</u> . Documentation of educational degrees and of or <u>professional certification or licensure credentials, as applicable ;</u> 9 <u>8</u> . Documentation of all training required by these regulations and any other training <u>employee development</u> received by individual staff; and 10 <u>9</u> . A current job description. <p>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.</p>	<p>No longer necessary to differentiate between paper and electronic recordkeeping.</p> <p>Item B.3 edited to be less prescriptive</p> <p>Item B.6 incorporated into B.2</p> <p>It is the provider's responsibility to handle appropriately per other laws and regulations.</p>

12VAC35-46-310. Staff development.

A. Required initial training.

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

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<p>D. Providers shall develop and implement written policies and procedures to ensure that part-time staff receive training applicable to their positions.</p> <p>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.</p>	<p>Subsection D is duplicative.</p>

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<p>12VAC35-46-330. The applicant.</p> <p>As a condition of initial licensure and, if appropriate, license renewal, each applicant shall:</p> <ol style="list-style-type: none"> 1. Provide documentation that they have been trained <u>of training</u> 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 3. Provide evidence of having relevant prior experience. 	<p>Clarifying edits.</p> <p>It is the provider's responsibility to ensure staff are qualified for job responsibilities, as applicable.</p>

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<p>12VAC35-46-340. The chief administrative officer. (Repealed.)</p> <p>A. The chief administrative officer shall have the following responsibilities:</p> <ol style="list-style-type: none"> 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. <p>B. A chief administrative officer appointed after December 28, 2007, shall have at least:</p> <ol style="list-style-type: none"> 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. <p>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:</p> <ol style="list-style-type: none"> 1. Official transcripts from the accredited college or university of attendance within 30 days of hire; and 2. Documentation of prior relevant experience. 	<p>It is the provider's responsibility to ensure appropriate administrative organization.</p>

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<p>12VAC35-46-380. Child care staff.</p> <p>A. The <u>Each</u> child care worker shall have responsibility <u>be responsible</u> for guidance and supervision of the children to whom he is assigned including:</p> <ol style="list-style-type: none"> 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. <p>B. A <u>Each</u> child care worker and a relief child care worker shall <u>furnish evidence that one of the following experience or education standards has been attained</u> :</p> <ol style="list-style-type: none"> 1. Have a <u>A</u> baccalaureate degree in human services; 2. Have an <u>An</u> associates degree and three months experience working with children; or 3. Be a <u>A</u> high school graduate <u>diploma</u> or have a G.E.D. and have six months of experience working with children. <p>C. Child care staff <u>A person</u> with a high school diploma or G.E.D. <u>and less than six months with no of</u> experience working with children <u>may be hired as child care staff provided that he does not work alone independently. Provisional child care staff shall at all times</u> , but may be employed as long as they are working work directly with the chief administrative officer, program director, case manager, child care supervisor, or a <u>an experienced</u> child care worker with one or more years <u>who has at least one year</u> of professional experience working with children.</p> <p>D. Child care staff in brain injury residential services shall have two years experience working with children with disabilities.</p> <p>E. An individual <u>A person serving in</u> hired, promoted, demoted, or transferred to a child care worker's position after August 6, 2009, shall be at least <u>24 19</u> years old, except as provided in 12VAC35-46-270 A.</p> <p>F. The provider shall not be dependent on temporary contract workers to provide resident care.</p>	<p>This amendment in subsection A maintains the responsibility but removes duplicative language.</p> <p>Amendments to subsection B for applicant clarity.</p> <p>Amendments to subsection C for clarity and to reflect striking of CAO in other sections.</p> <p>The requirement in subsection D does not need to be set out separately.</p> <p>Subsection E contains an amendment to support workforce challenges (and a technical amendment). Staff with no experience cannot work alone.</p>

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<p>12VAC35-46-400. Volunteers and student/interns.</p> <p>A. A facility that uses volunteers or students/interns shall develop and implement written policies and procedures governing their selection and use.</p> <p>B. The facility shall not be dependent upon volunteers or students/interns to provide basic services.</p> <p>C. Responsibilities of volunteers and students/interns shall be clearly defined in writing.</p> <p>D. Volunteers and students/interns shall have qualifications appropriate to the services they render.</p>	<p>The health, welfare and safety concern of utilizing students and volunteers is the supervision aspect. Subsection B addresses this issue and the department feels it should be within the provider's discretion whether to create a policy regarding students and volunteers outside of the restriction in subsection B.</p> <p>The stricken language is redundant of the remaining language.</p>

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<p>12VAC35-46-420. Buildings, inspections and building plans.</p> <p>A. All buildings and building-related <u>building-related</u> equipment shall be inspected and approved by the local building official. Approval shall be documented by a certificate of occupancy.</p> <p>B. The facility shall document at the time of its original application evidence of consultation with state or local fire prevention authorities.</p> <p>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 <u>13VAC5-52</u>).</p> <p>D. At the time of the original application and at least annually thereafter the buildings <u>any location where the provider is responsible for serving food</u> shall be inspected and approved by state or local health authorities <u>regarding food service and general sanitation in accordance with 12VAC5-421</u> , whose inspection and approval shall include:</p> <ol style="list-style-type: none"> 1. General sanitation; 2. The sewage disposal system; 3. The water supply; and 4. Food service operations. <p>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.</p> <p>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.</p> <p>G. Swimming pools shall be inspected annually by the state or local health authorities or by a swimming pool business.</p>	<p>Subsection C edit corrects VAC reference.</p> <p>Subsection D is streamlined to cover only VDH food regulations subject to periodic inspection after original application (not building inspections, SDS generally, etc.).</p> <p>Subsection G provides a reduction in burden while deferring to health authorities' oversight.</p>

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<p>12VAC35-46-470. Personal necessities.</p> <p>A. An adequate supply of personal necessities shall be available to the residents at all times for purposes of personal hygiene and grooming.</p> <p>B. Clean, individual washcloths and towels shall be in good repair and available once each week and more often if needed.</p> <p>C. When residents are incontinent or not toilet trained:</p> <ol style="list-style-type: none"> 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. <u>Appropriate privacy, confidentiality, and dignity shall be maintained for residents during toileting and diapering, appropriate measures shall be taken for sanitation and to protect each individual's privacy, confidentiality, dignity, and health .</u> 	<p>This simplified language maintains the same level of care with simplified language.</p>

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<p>12VAC35-46-480. Sleeping areas.</p> <p>A. When residents are four years of age or older, boys and girls shall have separate sleeping areas.</p> <p>B. No more than four children shall share a bedroom or sleeping area.</p> <p>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.</p> <p>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.</p> <p>E. Sleeping quarters in facilities established, constructed, or structurally modified after July 1, 1981, shall have:</p> <ol style="list-style-type: none"> 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. <p>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.</p> <p>G. Bed linens shall be changed at least every seven days and more often if needed.</p> <p>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).</p> <p>I. Cribs shall be provided for residents under two years of age.</p> <p>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.</p> <p>K. The environment of sleeping areas shall be conducive to sleep and rest.</p>	<p>The requirements of subsection K are covered by 12VAC35-115-50 C 7, and related sections of this chapter, namely item 13 of subsection 920 and B of subsection 1030.</p>

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<p>12VAC35-46-560. Storage. (Repealed.)</p> <p>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.</p>	<p>It is the provider's responsibility to arrange for appropriate storage of various items.</p>

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

A. ~~A~~ The provider shall maintain a separate written or automated case record ~~shall be maintained~~ for each resident in accordance with 32.1-127.1:03 of the Code of Virginia . 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.

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

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

1. Access, duplication, dissemination, and acquiring of resident 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~~ Storage, processing, and handling of active and closed records ;
3. Security measures to protect records from loss, unauthorized alteration, inadvertent or unauthorized access, disclosure of information and during transportation of records between service sites;
4. ~~Designation of person responsible for records management~~ Strategies for service continuity and record recovery from interruptions that result from disasters or emergencies including contingency plans, electronic or manual back-up systems, and data retrieval systems ; and
5. Disposition of records in the event the facility ceases to operate.

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

E. Active and closed records shall be kept in areas 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.~~

Amendments to subsection A insert an appropriate cross-reference to the Virginia Health Records Act for clarity and remove unnecessary differentiation between paper and electronic records (aligned with Chapter 105).

Amendments to subsection C simplify language and mirror Chapter 105.

These requirements in subsection C 2 are unnecessary as they are covered by remaining language.

Item 4 of subsection C is not needed as it is up to the provider to ensure appropriate staffing for records management.

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<p>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.</p> <p>F. Each resident's written record shall be stored separately subsequent to the resident's discharge according to applicable statutes and regulations.</p> <p>G. Written and automated <u>Case</u> 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.</p> <p>H. The face sheet shall be retained permanently unless otherwise specified by state or federal requirements.</p> <p>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.</p>	<p>Subdivisions E.1 and E.2 are stricken because they are duplicative of subsection C and HIPAA.</p> <p>If providers are following the retention requirements of state and federal laws for health records, any requirement regarding face sheets will be covered, thus making the language in subsection H unnecessary.</p>

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<p>12VAC35-46-690. Participation of residents in human research. (Repealed.)</p> <p>The provider shall:</p> <ol style="list-style-type: none">1. Implement a written policy stating that residents will not be used as subjects of human research; or2. 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.	<p>These requirements are covered by 12VAC35-180.</p>

12VAC35-46-710. Application for admission.

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

B. Providers shall develop, and fully complete prior to acceptance for care, an application for admission that is designed to compile screening 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~~ developmental disability , 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.

C. The resident's record shall contain a completed assessment based on information compiled from the screening application at the time of a routine admission or within 30 days after an emergency admission.

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

Amendments to subsections A and B reduce the intensity of the requirement to a screening and make amendments for clarity.

Section	Reasoning
<ol style="list-style-type: none">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; and3. 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.	

Section	Reasoning
<p>12VAC35-46-720. Written placement agreement.</p> <p>A. The facility , except a facility that accepts admission only upon receipt of the order of a court of competent jurisdiction, shall develop and execute a written placement agreement that authorizing the resident's placement, signed by a facility representative and the parent, legal guardian, or placing agency. The completed and signed placement agreement shall be placed in the resident's record prior to a routine admission. The requirements of this subsection do not apply to court-ordered placements.:</p> <ol style="list-style-type: none"> 1. Authorizes the resident's placement; 2. Addresses acquisition of and consent for any medical treatment needed by the resident; 3. Addresses the rights and responsibilities of each party involved; 4. Addresses financial responsibility for the placement; 5. Addresses visitation with the resident; and 6. Addresses the education plan for the resident and the responsibilities of all parties. <p>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.</p> <p>C. The record of each person admitted based on a court order shall contain a copy of the court order. Notwithstanding the provisions of subsection A, a facility that accepts an admission upon receipt of the order of a court of competent jurisdiction shall place a copy of the court order in the resident's record .</p>	<p>Regarding subsection A amendments, there is nothing in Chapter 11 of Title 37.2 of the Code of Virginia that requires these specifics. The language comes from juvenile justice regulatory language from 2014.</p> <p>The court orders specify the information needed. Further, DBHDS is not the agency involved with placement agreements.</p> <p>The requirements in subsection B and C are simplified with the first subsection.</p>

12VAC35-46-750. Individualized service plans/quarterly reports.

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

B. 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.

~~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 the ISP goals and objectives of the individualized service plan that shall include the:~~

- 1. Format;
- 2. Frequency; and
- 3. Person responsible.

~~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.

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

The requirements of newly ordered subsection C are covered by subsection D.

Section	Reasoning
<p>Ⓔ <u>F</u> . 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 <u>current plan</u> <u>ISP</u> .</p> <p>H <u>G</u> . There shall be documentation showing <u>In developing and updating the ISP and in developing the quarterly progress report, the provider shall document</u> the involvement of the following parties unless clearly inappropriate , in developing and updating the individualized service plan and in developing the quarterly progress report :</p> <ol style="list-style-type: none">1. The resident;2. The resident's family, if appropriate, and legal guardian;3. The placing agency; and4. Facility staff. <p>‡ <u>H</u> . 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.</p>	

Section	Reasoning
<p>12VAC35-46-760. Resident transfer between residential facilities located in Virginia and operated by the same sponsor.</p> <p>A. Except when transfer is ordered by a court of competent jurisdiction, the receiving provider <u>provider's receiving service or facility</u> shall document <u>receipt of the following</u> at the time of <u>the resident's</u> transfer:</p> <ol style="list-style-type: none"> 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 <u>Documentation of advance notification</u> to the family, if appropriate ; <u>and to</u> the resident, the placement agency, and the legal guardian; 3. 2. Receipt from the sending facility of a <u>A</u> written summary of the resident's progress while at the <u>transferring</u> facility, justification for the transfer, and the resident's current strengths and needs; and 4. 3. Receipt <u>A copy</u> of the resident's record. <p>B. The sending <u>transferring service or facility</u> 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 <u>receiving service or facility</u> to which the resident has been <u>was</u> transferred.</p>	<p>Language in subsection A 1 is redundant of A 2 and other parts stricken for clarity</p> <p>The simplification of subsection B retains the important elements of documentation.</p>

Section	Reasoning
<p>12VAC35-46-810. Health care procedures.</p> <p>A. The provider shall have and implement written procedures for promptly:</p> <ol style="list-style-type: none"> 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; <u>and</u> 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. <u>Ensuring that the required information in subsection B of this section is accessible and up to date in crisis including 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.</u> <p>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:</p> <ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> 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. <p>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.</p>	<p>Providers are always required to ensure documentation is accessible and up to date. The stricken language in subsection A is redundant. The added language is clarifying and allows for the repeal of section 820.</p> <p>This language is not necessary as providers are always required to ensure documentation is accessible and up to date.</p>

Section	Reasoning
<p>12VAC35-46-820. Written policies and procedures for a crisis or clinical emergency. (Repealed.)</p> <p>The provider shall develop and implement written policies and procedures for a crisis or clinical emergency that shall include:</p> <ol style="list-style-type: none"> 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. 	<p>With the amendments to section 810 A, this section is duplicative.</p>

Section	Reasoning
<p>12VAC35-46-830. Documenting crisis intervention and clinical emergency services.</p> <p>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:</p> <ol style="list-style-type: none"> 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. <p>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.</p> <p>C. There shall be written policies and procedures for referring to or receiving residents from:</p> <ol style="list-style-type: none"> 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. 	<p>The stricken language in C is unnecessary given current and amendment language in other sections, and the list has no impact on the referral process.</p>

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. Disposal of medication;
- 4. Distribution of medication off campus;
- ~~3.~~ 5. Documentation of medication errors and drug reactions; and
- 4. 6. Documentation of any medications prescribed and administered following admission.

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

~~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~~ Training requirements necessary for employees or contractors who are authorized to administer medication. Medications shall be administered only by persons authorized to do so by The Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia) .

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

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.

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;

Amendments to subsection A 1 a-b are covered remaining language in newly numbered 5. Amendments to the list bring two specifics from the stricken subsection J.

Simplifying and clarifying (also aligns with amendment to Chapter 105).

Section	Reasoning
<p>4. Strength; 5. Route; 6. Identity of the individual who administered the medication; and 7. Dates the medication was discontinued or changed.</p> <p>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.</p> <p>I. Medication refusals shall be documented including action taken by staff.</p> <p>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.</p> <p>K. The telephone number of a regional poison control center and other emergency numbers shall be posted on or next to each non-pay <u>non-pay</u> telephone that has access to an outside line in each building in which children sleep or participate in programs.</p> <p>L. Syringes and other medical implements used for injecting or cutting skin shall be locked.</p>	<p>This language in subsection J is repetitive of language above in the section, except that two items are moved to subsection A.</p>

Section	Reasoning
<p>12VAC35-46-860. Nutrition.</p> <p>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.</p> <p>B. Menus of actual meals served shall be kept on file for at least six months.</p> <p>G. Special diets shall be provided when prescribed by a physician and the established religious dietary practices of the resident <u>residents</u> shall be observed.</p> <p>D C . Staff who eat in the presence of the residents shall be served the same meals as the residents unless (i) a special diet has been prescribed by a physician for the staff or residents or (ii) the staff or residents are observing established religious dietary practices.</p> <p>E D . There shall not be more than 15 hours between the evening meal and breakfast the following day.</p> <p>F E . Providers shall assure that food is available to residents who need to eat breakfast before the 15 hours have expired.</p> <p>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.</p>	<p>Subsection B is administratively burdensome and there is no need to review six month old menus.</p> <p>Subsection G is covered by subsection E.</p>
<p>12VAC35-46-880. Emergency telephone numbers.</p> <p>A. There shall be an emergency telephone number where a staff person may be immediately contacted 24 hours a day.</p> <p>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.</p>	<p>Subsection A covers every circumstance; language in subsection B is not necessary.</p>

Section	Reasoning
<p>12VAC35-46-890. Searches.</p> <p>A. Strip searches and body cavity searches are prohibited except:</p> <ol style="list-style-type: none"> 1. As permitted by other applicable state regulations; or 2. As ordered by a court of competent jurisdiction. <p>B. A provider that does not conduct pat downs shall have a written policy prohibiting them.</p> <p>C. A provider that conducts pat downs shall develop and implement written policies and procedures governing them that <u>their use shall provide providing</u> that:</p> <ol style="list-style-type: none"> 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 <u>trained and</u> 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 <u>in accordance with 12VAC35-115</u> and in the presence of one or more witnesses. 	<p>Strips searches are not appropriate and are not in line with the Human Rights Regulations.</p>

12VAC35-46-900. Behavior support.

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

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.

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

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 consistent with the requirements of 12VAC35-115-105. ~~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;~~

The language in subsection D is duplicative of language in Chapter 115.

Section	Reasoning
<p>4. Specify the mechanism for monitoring the use of behavior support techniques; and</p> <p>5. Specify the methods for documenting the use of behavior support techniques.</p>	

12VAC35-46-940. Behavior interventions.

A. The provider shall develop and implement written policies and procedures for behavioral interventions and consistent with the requirements of 12VAC35-115. Minimum provisions shall include rules of conduct and methods 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.~~

B. Written information concerning the provider's behavioral support and intervention 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 ~~The requirements of this subsection do~~ 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.~~

D. The provider shall develop and implement written policies and procedures governing use of physical restraint that shall ~~include~~ comply with the requirements of 12VAC35-115:

- ~~1. The staff position who will write the report and timeframe;~~
- ~~2. The staff position who will review the report and timeframe; and~~

Appropriate cross references are made to the Human Rights regulations and language streamlined.

Appropriate cross references are made to the Human Rights regulations and language streamlined.

Section	Reasoning
<p>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.</p> <p>E. All physical restraints shall be reviewed and evaluated to plan for continued staff development for performance improvement.</p> <p>F. Use of physical restraint shall be limited to that which is minimally necessary to protect the resident or others <u>as required by 12VAC35-115</u>.</p> <p>G. Trained staff members may physically restrain a resident only after less restrictive interventions.</p> <p>H. Only trained staff members may manage resident behavior.</p> <p>I. Each application of physical restraint shall be fully documented in the resident's record including:</p> <ol style="list-style-type: none"> 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. <p>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.</p> <p>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.</p> <p>L. Any time children are present staff shall be present who have completed all trainings in behavior intervention.</p>	<p>Appropriate cross references are made to the Human Rights regulations and language streamlined.</p>

Section	Reasoning
<p>12VAC35-46-950. Seclusion. Seclusion is allowed only as permitted by <u>12VAC35-115</u> and other applicable state regulations.</p>	<p>Appropriate cross reference added for clarity.</p>

12VAC35-46-990. Recreation.

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.

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;~~

The language stricken language is overly prescriptive, and to the point of possibly deterring providers from seeking these kinds of recreational activity. The general providers are always required to ensure documentation is accessible and up to date. Statements about the policies to 'ensure' are sufficient. Subsection C 5 would be covered in requirements within an ISP if additional time was needed to prepare for change. Item 9 of subsection C is covered under subsection B

Section	Reasoning
<p>7. A trip schedule giving addresses and phone numbers of locations to be visited and how the location was chosen/evaluated;</p> <p>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;</p> <p>9. A plan to ensure that a certified life guard supervises all swimming activities in which residents participate; and</p> <p>10. 6. Documentation of any variations from trip plans and reason for the variation.</p> <p>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.</p>	

Section	Reasoning
<p>12VAC35-46-1010. Clothing.</p> <p>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.</p> <p>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.</p> <p>C. Residents shall have the opportunity to participate in the selection of their clothing, except this requirement does not apply to secure custody facilities.</p> <p>D. Residents shall be allowed to take personal clothing when leaving the facility.</p>	<p>Subsections A and C are sufficient.</p>
<p>12VAC35-46-1020. Allowances and spending money.</p> <p>A. The provider shall provide opportunities appropriate to the ages and developmental levels of the residents for learning the value and use of money.</p> <p>B. There shall be a written policy regarding allowances that shall be made available to legal guardians at the time of admission.</p> <p>C. The provider shall develop and implement written policies for safekeeping and for recordkeeping of any money that belongs to residents.</p> <p>D. B. A resident's funds, including any allowance or earnings, shall be used for the resident's benefit.</p>	<p>Subsection C incorporates A and B. The department feels that subsection A is outside of the department's purview and should be covered by schooling which is required by section 970.</p>
<p>12VAC35-46-1040. Visitation at the facility and to the resident's home. (Repealed.)</p> <p>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.</p> <p>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.</p>	<p>These requirements are covered by Chapter 115.</p>

Section	Reasoning
<p>12VAC35-46-1060. Vehicles and power equipment.</p> <p>A. Transportation provided for or used by children shall comply with local, state, and federal laws relating to:</p> <ol style="list-style-type: none"> 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. <p>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.</p> <p>C. The provider shall develop and implement written safety rules for use and maintenance of vehicles and power equipment.</p>	<p>Language in subsection C is covered by remaining language and general provisions for safety in this chapter and Chapter 115.</p>
<p>12VAC35-46-1090. Grievance procedures <u>Human rights complaint process</u> .</p> <p><u>The provider shall comply with the Office of Human Rights regulations including the Human Rights Complaint Process outlined in 12VAC35-115-175.</u></p> <p>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:</p> <ol style="list-style-type: none"> 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. <p>B. All documentation regarding grievances shall be kept on file at the facility for three years unless other regulations require a longer retention period.</p>	<p>This language is duplicative of Section 150 of Chapter 115.</p>

Section	Reasoning
<p>12VAC35-46-1100. Disaster or emergency planning. (Repealed.) 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.</p>	<p>This language is covered by section 1110.</p>
<p>12VAC35-46-1120. Independent living programs. (Repealed.)</p>	<p>Independent living falls under the authority of DSS, not DBHDS.</p>
<p>12VAC35-46-1130. Mother/baby programs. (Repealed.)</p>	<p>These programs are licensed by DSS, not DBHDS.</p>
<p>12VAC35-46-1140. Campsite programs or adventure activities. (Repealed.)</p>	<p>These programs are not licensed by DBHDS.</p>