# 05 - 071 DEPARTMENT OF EDUCATION

Chapter 18: RULES FOR THE LICENSURE OF RESIDENTIAL CHILD CARE FACILITIES

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 To those in the various state departments who have aided in multiple and diverse ways; and

 To the children in care who constantly remind us of the real reason we have all worked so hard together.

1. INTRODUCTION

 A. Foreword

 These rules are based on the values and level of child care practice that are generally accepted as basic and necessary for any child who must be placed outside their own home and on the belief that every aspect of a residential facility's operation affects the children in its care. The funding source of the facility, the statutory basis or authority for the facility's existence, the nature of the administrative structure, the philosophical principles of the facility, or the degree of specialization of the program should not affect a facility's provision for these basic needs.

 It is not the intent of these rules to create uniformity among the facilities. Children in the care of residential facilities have many and diverse needs. In order to respond effectively to these needs, there must be a wide range of programs, settings and services.

 These rules allow for a broad variance in practice. At the same time they outline the basic elements necessary for all residential facilities. These rules are designed to assure that a facility which meets all of these requirements, will: (1) provide a safe and healthy environment for residents; (2) review children's needs for services and care on a regular, although limited, basis to prevent children from becoming "lost" in the system; and (3) provide or arrange for services identified as necessary for the children accepted into the facility's care.

 B. Legal Base

 While the departments are required by statute to coordinate their licensing procedures along with utilizing a common set of rules, each department retains its full authority and responsibility for assuring that a residential child care facility is licensed in compliance with laws pertaining to that department. In addition, licensure under these rules does not exempt any agency or facility from further responsibilities for compliance with other applicable laws, consent decrees, purchase of service agreements or contracts which may be more restrictive.

 These rules are adopted in accordance with 22 MRSA §8101 et seq. and in conformity with 5 MRSA §8001 et seq. In accordance with 22 MRSA §8104, requiring establishment of a method for appropriate and timely review and revision of these rules by the departments responsible for their implementation, the departments shall conduct such review and revision from all licensees and concerned governmental agencies. These recommendations shall be given full consideration, along with other submitted recommendations, in proposed revisions.

 (1) Repeal of Previous Rules and Regulations. All previous rules and regulations governing the licensing of residential child care facilities in the State of Maine are hereby repealed.

 (2) Severance Clause. The provisions of these rules are severable. If any provision of the rules is invalid, or if the application of the rules to any person or circumstances is invalid, such invalidity shall not effect other provisions or applications which can be given effect without the invalid provision or application.

 (3) Effective Date. These rules governing the licensing of Residential Child Care Facilities for children shall become effective March 15, 1989.

 C. Rules Format

 (1) Core Rules. The goal of these rules is to establish a core set of requirements which are adaptable to a wide range of residential care. These rules:

- Reduce the licensing authority's arbitrariness in enforcement;

- Provide a knowledge base for a new provider or an existing provider wishing to improve the quality of service;

- Provide predictability for the facility being licensed;

- Provide a base for the purchase of service in developing program evaluation (quality assurance) standards.

 (2) Special Module Rules. To facilitate coordination of licensing responsibilities among the departments, special services provided to specific populations at residential facilities are addressed through the use of separate modules. These modules are designed to be applied, where appropriate, either singularly or jointly based on a facility's program.

 a. Education Rules. For those facilities directly providing an educational program, a separate module specifically directed toward educational services as well as these core rules shall be complied with in order to be licensed as a residential child care facility.

 b. Substance Abuse Treatment Rules. For those facilities directly providing a substance abuse treatment program, a separate module specifically directed toward substance abuse treatment as well as these core rules shall be complied with in order to be licensed as a residential child care facility.

 c\* Mental Health Treatment Rules. For those facilities directly providing a mental health treatment program, a separate module specifically directed toward mental health treatment as well as these core rules shall be complied with in order to be licensed as a residential child care facility.

 D. Interagency and Interdepartmental Coordination

 The departments recognize the burden imposed by the practice of requiring the same or similar supportive documents for licensing that may be required for contracting purposes. The departments will internally store the documents and will not require the facility to provide duplicate copies.

 The departments' licensing authorities will share any document provided by the facility in fulfillment of a requirement within these rules including special module rules. When appropriate, licensing site studies, information sharing, monitoring visitations, and reviews will be coordinated and conducted as a team by representatives of the departments.

2. DEFINITIONS

 A. For the purposes of these rules the meaning of all adjectives and adverbs such as adequate, competent, substantial, qualified, necessary, reasonable, satisfactory, sufficient, effective, appropriate or suitable used to qualify a persons policy, procedure, equipment or building shall be determined by the licensing authority.

 B. As used in these rules, the following words shall have the following meanings unless the context requires otherwise.

 Advisory Board. An association of persons which makes recommendations regarding the policies and procedures of a residential facility to the governing body of that facility but having no proprietary interest in the facility or actual managerial or administrative authority.

 Approval. (See definition of License.)

 Bedroom. A distinct space used as a sleeping area for children. A dormitory-style bedroom may be broken into several bedroom spaces using partitions. Closets, alcoves and corridors or any other room which is normally used for other than sleeping is not considered to be a bedroom.

 Blood Relatives. Natural or adoptive mother, father., brother, sister, grandparent, uncle, aunt, niece, nephew, first cousin.

 Board of Directors. An association of persons which has ultimate administrative and managerial control and is empowered to serve as the governing body of a residential facility. This board normally discharges its responsibilities by employing a chief executive officer and formulating policies for the facility's operations.

 Chemical Restraint. The use of psychotropic agents as a form of restraint.

 Child. Any person who has not attained the age of eighteen (18).

 Children's Home. Any residence maintained exclusively or in part for the board and care of one or more children under the age of eighteen (18) by anyone other than a relative by blood, marriage or adoption and as further defined in 22 MRSA §8101 (1). Children's home shall not include a facility established primarily to provide medical care, a children's camp established solely for recreational and educational purposes, or a school established solely for educational purposes except as defined in "residential child care facility."

 Department, The Department of Human Services, the Department of Mental Health and Mental Retardation and/or the Department of Education jointly or separately, as appropriate.

 Discipline. A system of rules governing conduct which usually prescribe consequences for the violation of those particular rules.

 Emergency Shelter. A children's home which operates to receive children twenty-four hours a day and which limits placement to thirty (30) consecutive days or less and as further defined in 22 MRSA 58101 (2). Emergency shelter shall not mean family foster home or specialized children's home and, if a service of a residential child care facility shall be restricted to a designated physical area of the facility.

 Facility. Residential child care facility; any body licensed to provide residential child care; a body applying for licensure to provide residential child care.

 Family Foster Home. A children's home that is a private dwelling where substitute parental care is provided within a family on a regular, twenty-four hours a day, residential basis. The total number of children in care may not exceed six (6) including the family's legal children under 16 years of age, with no more than two (2) of these children under the age of two.

 Governing Body. A person or persons ultimately responsible for the operation of a facility. The governing body has authority over the policies and activities of a facility.

 Guardian. A person or persons with an ongoing legal responsibility for caring for a child, including the biological or adoptive mother and/or father or a court-appointed guardian.

 Immediate Family. Natural or adoptive mother and father, brother and sister. If extended family member(s) (e.g.\* grandparent, aunt, uncle, cousin, nephew, niece) live in the same household, they may be considered as part of the immediate family.

 Isolation. The removing of a child from a stimulus by use of involuntary separation and restricted activity. Isolation may mean restriction in an unlocked room with adequate supervision but shall not mean confinement in a locked room.

 License. Written permission, whether provisional, conditional or full, issued by the department which authorizes the licensee to operate a residential child care facility.

 Licensing Authority. The unit(s) or person(s) authorized by the department to issue licenses or approvals under these rules.

 Living Unit. Any specific grouping of children who are assigned to a distinct and common physical space within the total residential facility and who share that space.

 Mechanical Restraint. The restriction by mechanical means of a child's mobility and/or ability to use his/her hands, arms or legs except when such restriction is primarily for the treatment of physical injury.

 Parent(s). The biological or adoptive mother and father.

 Passive Physical Restraint. The least amount of direct physical contact required on the part of a staff member to prevent a child from hurting himself/herself or others; approved methods of making such physical contact.

 Person. Any individual, partnership, corporation, association, organization or trust.

 Placing Agency. Any individual, agency or organization, either publicly or privately operated, legally authorized to place a child into the care of a children's home.

 Principal Owner, Any person holding a greater than 7% financial interest in the facility.

 Relatives by Marriage. A step-brother, step-sister, step-father, step-mother, or step-grandparent, a spouse of a natural aunt or uncle.

 Residential Child Care Facility. Any children's home which provides board and care for one or more children on a regular, twenty-four hour a day residential basis and as further defined in 22 MRSA {8101 (4). A residential child care facility shall not mean family foster home, specialized children's home or an emergency shelter facility.

 Rules. The Rules for the Licensure of Residential Child Care Facilities, in whole or in part.

 Service Plan. A comprehensive time-limited, goal-oriented, individualized plan for the care, treatment and education of a child in care of a residential facility. The service plan is based on a current comprehensive evaluation of the child's needs.

 Specialized Children's Home. A children's home where care is provided to no more than four (4) moderately to severely handicapped children by a caretaker who is specifically educated and trained to provide for the particular needs of each child placed. The total number of children in a specialized children's home may not exceed four (4), including the caretaker's legal children under sixteen years of age, with no more than two (2) children under the age of two.

3. WAIVERS. The department may, upon written request, waive a particular rule. The facility shall provide clear and convincing evidence, including, at the request of the department, expert opinion, which demonstrates to the satisfaction of the department that the facility's alternative method will comply with the intent of the rule.

 A. The following rules, however, shall not be subject to waiver:

 (1) Statement of Ownership 4.A.1.

 (2) Administrative Organization 4.A.4.

 (3) Financial Plan 4.A.5.b.

 (4) Statement of Purpose 4.C.1.

 (5) Program Description 4.C.2.

 (6) Educational and Vocational Services 4.C.4.

 (7) Evidence of Access to. Emergency Medical and Mental Health Services

 (8) Staff, Volunteer and Student Orientation Plan 4.D.9.A.

 (9) Staff Training Plan 4.D.9.c.

 (10) Clinical Consultant 4.E.6.c.

 (11) Location and Floor Plan 4.F.1.

 (12) Lead Poisoning 4.F.2.b.

 (13) Life Safety 4.F.2.c.

 (14) Water Supply 4.F.2.d.

 (15) Emergency Procedures 4.F.8.a.

 B. Upon request, the department shall provide a form to be used by the facility to submit a request for waiver of a particular regulation. All requests shall be answered in writing and a record of them maintained.

 C. A waiver shall be granted for a specific period not to exceed the period of the license.

 D. Violation of the waiver shall be enforceable as rule and subject to actions described in "Sanctions and Corrective Actions". (5.C.1.)

4. REQUIREMENTS FOR LICENSURE

 NTE: Rules preceded by an asterisk require submission of documentation for initial licensure. This documentation will be maintained by the licensing authority for use in licensing reviews as evidence of continued compliance with those requirements. Changes in such documentation shall be provided to the licensing authority in accordance with 4.A.2.k.

 A. Organization

 (1\*). Statement of Ownership. (Non-waiverable) The facility shall submit documentary evidence of its sources of authority to operate a facility. The facility shall have documents which fully identify the names and addresses of its principal owners. A corporation, partnership or association shall identify the names and addresses of its officers and directors and shall provides, where applicable, the charter, partnership agreement, constitution, articles of association and by-laws.

 (2) Responsibilities of the Governing Body. The facility shall have a governing body which shall meet at least quarterly and which shall be responsible for and have authority over the policies and activities of the facility. The governing body shall:

 a. Ensure the facility's continual compliance and conformity with the provisions of the facility's charter;

 b. Ensure the facility's continual compliance and conformity with all relevant laws and regulations, whether federal, state or local, governing the operation of the facility;

 c. Ensure that the facility is adequately funded and fiscally sound and shall:

 i. Review and approve the facility's annual budget;

 ii. Provide for the review and approval of an annual report to be completed by an independent auditor;

 d. House, maintain, staff and equip the facility in such a manner as to implement the program;

 e. Designate a person to act as chief administrative officer of the facility and delegate sufficient authority to such person to manage the facility;

 f. Formulate and annually review written policies required by these rules in consultation with the chief administrative officer;

 g. Complete an annual written evaluation of the performance of the chief administrative officer to ensure that the officer's conduct of the facility's business conforms with its charter, all relevant laws and regulations, and the policies defined by the governing body;

 h. Meet with representatives of the licensing authority whenever required to do so;

 i. Maintain minutes of all meetings of the governing body;

 j. Provide prior written notification to the licensing authority of any proposed change in location, name or ownership of the facility;

 k. Provide written notification upon any change of chief administrator of the facility and notice of intent prior to any substantial change in policy, staff or service within a time which is reasonable to permit the licensing authority to take any steps to determine whether any change in licensing status is necessary;

 l. Report in writing any legal proceedings brought against the facility or against any employee within two weeks after the facility receives notification of such proceedings. Such notification is required only if the proceedings arise out of circumstances related to the care of children or to agreements related to the care of children or to continued operation of the facility;

 m. Make available to the licensing authority any policy or records which are required by these rules or are reasonably related to the assessment of compliance with these rules.

 (3) Organization of the Governing Body.

 a. The governing body shall be organized and composed in such a manner as to adequately discharge its defined responsibilities.

 b. No employee, or member of the immediate family of an employee assigned responsibilities associated with the licensing, purchase of service or contracting functions of any public agency which purchases the services or regulates the facility shall be a member of the governing body.

 c. Non-Profit Organization.

 i. A non-profit facility shall have a board of directors and shall maintain a list of the membership of its board of directors indicating the name, address, position and the term of office for each officer.

 ii. If a paid staff person or the chief administrative officer of the facility serve as a member of the governing body they shall not have a controlling or determining vote and shall not vote on matters of self-interest.

 d. For-Profit Organization. A for-profit organization shall have the governing body of the facility served by an advisory board. The appointment of the advisory board shall be done by the governing body from among persons knowledgeable in children's care and shall not include relatives of members of the governing body and/or employees of the facility or of the members of the governing body.

 i. The facility shall maintain a list of the members of the advisory board which shall indicate the name, address and term of membership.

 ii. The advisory board shall:

 (a) Keep informed of the operational policies and practices of the facility;

 (b) Provide advice to the governing body on matters affecting the care of and services to children;

 (c) Periodically review aspects of the operation of the facility;

 (d) Meet at least quarterly;

 (e) Maintain records of attendance and minutes of its meetings which shall be available to the licensing authority.

 iii. In the event of a serious disagreement between the governing body and the advisory board, the advisory board shall report to the licensing authority clearly outlining in writing the nature of the disagreement and their recommendations.

 (\*4) Administrative Organization. (Non-waiverable) The facility shall submit an organizational table and/or written description showing complete information 'on the facility's lines of authority and communications staff responsibility and assignment.

 a. Role of the Administrative Officer. The chief administrative officer shall:

 i. Manage the affairs of the facility in accordance with policies established by the governing body and these rules;

 ii. Have direct and immediate access to health and medical services, food services and buildings and grounds maintenance services;

 iii. Notify the licensing authority in the event of the death of a child in care;

 iv. Notify the licensing authority in the event of fire, structural damage or other catastrophe which renders the facility unsafe, unusable or uninhabitable within a time which is reasonable to permit a determination of whether any change in licensing status is necessary;

 v. Post any current license issued by the department in a clearly visible place within the facility.

 b. Designated Administrator of Facility. When a residential child care facility is part of a larger organization which provides services other than those licensable under these rules there shall be a person designated to act in the role of the administrative officer as outlined above.

 c. Availability of Administrative Officer. The chief administrative officer or designee shall be readily accessible to the staff of the facility and to the authorized representatives of the department as well as other appropriate governmental agencies at all times.

 (5) Business and Fiscal Management.

 a. The facility shall establish a system of business management and staffing to assure maintenance of complete and accurate accounts books and records as required by these regulations and in accordance with generally accepted accounting practice. When a residential child care facility is part of a larger organization which provides other services, the residential child care facility shall have a written annual budget reflecting the actual total cost of such services.

 b. Financial Plan. (Non-waiverable) The facility shall provide a written plan of financial capability projected for the licensing period and including:

 i. A projected budget including income and expenses;

 ii. A cash flow plan showing projected revenue, lines of credit and cash or liquid asset reserves sufficient to meet the facility's expenses over a three (3) month period;

 iii. A list of all revenue sources and amounts of revenue anticipated from these sources, together with;

 (a) Letters of commitment from the revenue sources or

 (b) Evidence of contracts or agreements with the revenue source, and

 (c) Any other evidence of financial viability.

 c. The facility shall demonstrate fiscal accountability through regular recording of its finances and an annual external audit. This audit shall be made available to any agency from which the facility purchases services or which provides funds to the facility.

 d. The facility shall not permit public funds to be paid or committed to be paid to any of the members of the governing body, administrative personnel, or members of the immediate families of members of governing body or administrative personnel or to any corporation or partners in a business enterprise in which any of these persons serve as an officer or employee or have any direct or indirect financial interest., unless the subcontracted services or goods involved are provided at a competitive cost or under terms favorable to the facility. The facility shall make written disclosure to the department of any financial transaction with the facility in which a member of the governing body, administrative personnel, or their immediate family is involved.

 (6) Insurance Coverage.

 a. Bonding. The facility shall maintain fidelity bonding in the amount equal to the maximum projected monthly cast flow within a fiscal year. All persons delegated the authority to sign checks or manage funds shall be bonded at the facility's expense.

 b. Fire and Liability Insurance. The facility shall carry insurance covering' fire and personal injury liability as protection for children in care. Liability shall be for $300,000 aggregate minimum.

 c. Vehicular Insurance. The facility shall ensure that any vehicle authorized for business use shall have insurance which covers liability. The facility shall ensure that any vehicle used to transport children has the following minimum amount of liability insurance:

 i. Injury per person: $300,000

 ii. Injury per accident: $500,000

 iii. Property damage: $ 25,000

 (7) Rights of Privacy and Confidentiality. The facility shall adopt written policies and procedures describing how the privacy of children in care and confidentiality of children's case records will be protected against loss, tampering or unauthorized use. The description shall include policy regarding:

 a. The photographing and audio or audio-visual recordings of children in care which ensures the dignity and confidentiality of the child and is authorized by the child's guardian;

 b. The participation of children in data research;

 c. The maintenance and security of records which specifies who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released; and

 d. The arrangements for appropriate disposition of children's records in the event of the facility's closure.

 (8) Release of Information and Disposal.

 a. The facility shall obtain the written informed consent of the child, if appropriate to the child's capability, and the child's guardian prior to involving the child in any activity related to fund raising, research or publicity for the facility.

 b. The facility shall maintain the confidentiality of all children's case records. Staff of the facility shall not disclose or knowingly permit the disclosure of any information concerning the child or the child's family to any unauthorized person.

 i. Unless otherwise permitted by law the facility shall, prior to releasing confidential information about a child, obtain a written informed consent signed and dated by the child's guardian which shall include:

 (a) Identification of the person or agency to whom the information is to be disclosed;

 (b) Identification of the specific information to be disclosed;

 (c) The reason for disclosure; and

 (d) The expiration date of the consent,. not to exceed six (6) months from date of signature.

 ii. The facility shall, upon request, make available information in the case record to the child, the child's parent or guardian and their respective legal counsel if the information does not contain:

 (a) Material which violates the right of privacy of another individual; or

 (b) Material that must be withheld from release according to other laws or by order of the court.

 (c) Information that, in the professional judgment of the administration of the facility, would be damaging to a child, except as provided for under the federal guidelines on the Family Educational Rights and Privacy Act of 1974 and the Education of All Handicapped Children Act of 1975 (PL 94-142).

 iii. The facility which, in the professional judgment of the administration of that facility, believes that information contained in the record would be damaging to the child may withhold that information except:

 (a) When ordered by a court to disclose the information; or

 (b) When required by federal or state laws to disclose the information.

 c. The facility shall not use material from case records for teaching or research unless names are deleted and other identifying information is disguised or deleted.

 d. The facility shall maintain the child's records for a period of not less than seven (7) years after the child attains the age of majority, unless specified otherwise in applicable state or federal laws. At that time the records may be disposed of in a manner which maintains the confidential nature of the material.

 (9) Representatives at Hearings. The facility shall, when allowed by law, have a representative present at judicial, educational or administrative hearings which address the status of a child in care of the facility.

 B. Administrative Policies and Plans

 The facility shall submit written documentation of rules preceded by an asterisk (\*).

 (\*1) Program Evaluation. The facility shall adopt a written plan for the annual evaluation of the facility's operation which shall cover:

 a. General program effectiveness in relation to stated goals and community needs;

 b. General staff effectiveness and staffing patterns;

 c. Staff turnover rate;

 d. Review of grievances and complaints;

 e. Rationale for the grouping of children;

 f. Emergency and safety procedures;

 g. Frequency of unplanned discharges of children in care;

 h. Periodic assessment and evaluation of treatment services.

 (2) Child Abuse. The facility shall adopt written policy for handling both known instances of child abuse or neglect and situations in which there exists reasonable cause to suspect an incident of child abuse or neglect.

 a. The facility shall assist mandatory reporters to comply with all applicable reporting procedures as required by law.

 b When such abuse or neglect or suspected abuse or neglect occurs within the facility's program the facility shall:

 i. Report the suspected incident to Child Protective Services of the Department of Human Services in accordance with 22 MRSA, §4011 and 4012 and cooperate fully in any subsequent investigation;

 ii. Conduct an in-house investigation of the suspected incident following notification to Child Protective Services provided that the timing of such in-house investigation does not obstruct the exercise of law enforcement or Child Protective Services investigations;

 iii. Ensure that the staff member involved does not work, directly with the child involved until the investigation is completed;

 iv. Discipline any staff member for whom there is reasonable evidence of involvement in an incident of child abuse or neglect.

 (\*3) Group Management. The facility shall, if appropriate, adopt a written policy regarding the manner in which children are arranged into group living arrangements within the facility which shall:

 a. Demonstrate that the arranging of children into such groups effectively addresses the needs of the children;

 b. Reflect the need of all children for privacy and describe places children may use for periods of quiet and privacy;

 c. Describe how children have an opportunity to build relationships within these groupings;

 d. Describe patterns of staff assignment for supervision of the groups;

 e. Describe how children are involved in decision making regarding the roles and routines of their living groups.

 (4) Child Management.

 a. The facility shall adopt a written policy describing the methods of child management relative to discipline and control used at the facility. It shall include:

 i. Rules governing the conduct of children in care;

 ii. Consequences for specific prohibited behaviors;

 iii. Identification of any staff restrictions to authorize or to apply disciplinary measures;

 iv. Procedures for a staff supervised resident-conducted child management groups, if used;

 v. Description of the mechanism for ongoing monitoring of child management policies and procedures;

 vi. Use of isolation procedures, if utilized, in accordance with the following:

 (a) The facility shall use isolation procedures in accordance with written policies only. Isolation shall not be used for punitive purposes, convenience of staff or as a method of controlling minor misbehaviors.

 (b) Other less restrictive response shall be considered prior to the use of isolation. These may include, but not be limited to, verbal discussion, counseling, voluntary time-out, etc.'

 (c) Each incident involving the use of isolation shall be recorded and shall include at least the following:

 (i) An assessment of the precipitating cause or reason for using isolation;

 (ii) Documentation of the length of time isolation was used and documentation of each visual check on the child;

 (iii) An explanation of less restrictive intervention tried prior to isolation or the reason why such preventions were not appropriate;

 (iv) An assessment of the procedures benefit relative to treatment goals established for the child;

 (v) Name(s) of the authorizing staff person(s) and staff involved.

 (d) Each use of isolation procedures shall be authorized and monitored by supervisory staff.

 (e) Any use of isolation procedures exceeding thirty (30) minutes in duration shall be approved by the chief administrative officer.

 (f) Isolation procedures exceeding thirty (30) minutes in duration shall be visually monitored at intervals appropriate to the child's needs but not to exceed fifteen (15) minutes.

 (g) Any use of isolation shall not exceed twenty-four (24) hours continuous duration.

 (h) The facility shall not permit the seclusion of a child in a locked space.

 b. The facility shall prohibit all punishments which are cruel, severe, unusual or subject a child to verbal abuses, ridicule or humiliation.

 c. The facility shall be prohibited from any type of physical punishment inflicted in any manner upon the body.

 d. The facility shall not administer psychotropic medications as means of punishment or disciplining a child.

 e. The facility shall ensure that disciplinary measures are:

 i. Administered as soon after the offensive behavior as possible;

 ii. Reasonably related to the nature of the offense and are not excessive;

 iii. Not delegated to persons who are not known to the child;

 iv. Not administered by residents, volunteers or inadequately trained staff.

 f. The facility shall allow the use of passive physical restraint only when one or more of the following exists:

 i. Threat of ham inflicted on staff or residents;

 ii. Threat of harm inflicted on self; or

 iii. Excessive and continuous damage to property.

 g. The facility shall not permit the use of any form of restraint other than passive physical restraint without the prior approval of the licensing authority.

 (5) Grievances. The facility shall adopt written policies and procedures for children in care and their guardians covering the receipt, considerations, and resolution of complaints and grievances.

 a. Children's grievance procedures shall be written in a clear and simple manner consistent with the age and ability of children in care to understand and shall allow children to make complaints without fear of retaliation.

 b. Children's and guardian's grievance procedures shall provide for timely and impartial resolution of grievances and shall ensure adequate administrative consideration including the use of advocates, if appropriate.

 (\*6) Family Involvement. The facility shall adopt written policies of the facility's overall approach to family involvement which shall include procedures to assist the family of a child in care to:

 a. Understand the policies of the facility;

 b. Understand their continuing responsibilities to their child;

 c. Adjust to the child's placement and separation;

 d. Understand the child's response to placement and separation; and

 e. Participate in service planning unless clinically contraindicated.

 (\*7) Communication. The facility shall adopt written policies regarding visiting and other forms of children's communication with family, friends and other persons important to the child. The policies shall encourage healthy family interaction, maximize the child's growth and development and protect children, staff and program from unreasonable intrusions in compliance with the following:

 a. Overnight visits. The policy shall include procedures for overnight visits outside the facility including recording the child's location, duration of the visit, name and address of the person responsible for the child while absent from the facility, and the time of the child's return.

 b. Mail. The facility shall not prohibit a child from receiving or sending mail.

 c. Telephones. The facility shall provide a sufficient number of telephones (either pay or free) for the children's use and shall have policies for children's use of these telephones.

 d. Family Communications. The facility shall make every possible effort to facilitate communication between a child in care and the child's parent(s) and/or guardian and shall provide opportunities for a child to visit with parent(s) or guardian and siblings.

 i. The facility shall schedule or supervise visits in accordance with the child's service plan.

 ii. The facility shall provide conditions of reasonable privacy for visits and telephone contacts between children and their families.

 iii. The facility shall make visiting time available for families who are unable to visit during regularly established times.

 e. Restriction on Communication. When the right of a child to communicate in any manner with a person outside the facility must be curtailed the facility shall:

 i. Inform the child of the conditions of and reasons for restriction or termination of his right to communicate with the specified individuals as appropriate to the situation;

 ii. Unless such explanation is contraindicated or is not feasible, inform the individuals with whom the restriction or termination of personal contact with the child has been made of the condition of and reason for that action;

 iii. Place a written report summarizing the conditions of and reasons for restriction or termination of the child's contact with the specified individuals into the child's case record and inform the guardian of 'Such restrictions and the placement agency, if it maintains an ongoing case management function;

 iv. Review this decision at least weekly;

 v. Not prohibit a child's attorney, clergyman, advocate under 22 MRSA §3551-3558, or an authorized representative of the placing agency from visiting, corresponding with or telephoning the child.

 \*(8) Community Interactions. The facility shall adopt written policies and procedures which describe:

a. The relationship between the facility and the community;

b. Involvement of children in community activities;

c\* Strategies for the optimum use of community resources.

 C. Program and Services

 The facility shall submit written documentation of rules preceded by an asterisk (\*).

 (\*1) Statement of Purpose. (Non-waiverable) The facility shall adopt a written statement specifying its philosophy, purposes program orientation and describing both short and long term aims. The statement shall identify the types of services provided and the characteristics of the children to be served by the program.

 (\*2) Program Description. (Non-waiverable) The facility shall adopt a written program plan which describes services provided.

 a. The plan shall make clear which services are provided directly and which will be provided in cooperation with community resources,

 b If several programs are administered at different geographical sites, appropriate resources shall be identified for each site.

 (3) Daily Routine. The facility shall make available a written plan of basic daily routines to all staff.

 a. Daily routines shall not be allowed to conflict with the implementation of a child's service plan.

 b. The plan shall be kept current and developed with the participation of the children in care.

 (\*4) Educational and Vocational Services. (Non-waiverable) The facility shall submit evidence of access to educational and vocational services and adopt a written description of its educational program. or its plan for ensuring that each child attends an appropriate educational program in accordance with state and local laws. The education plan shall describe any vocational or pre-vocational services and life skills training appropriate 'to the age and abilities of children in care. The facility shall:

 a. Provide appropriate space and supervision for quiet study after school hours;

 b. Provide that each child has access to necessary reference materials.

 c. Establish routine communication between the direct service staff involved with the child in care and any educational program in which the child is placed;

 d. Ensure that any vocational program used is approved by appropriate authorities.

 (\*5) Work and Employment. The facility shall submit evidence that any work-study program used complies with all state and federal child labor laws and that any child engaged in productive work at or outside of the facility is protected in accordance with State and Federal Child Labor Laws. The facility shall:

 a. Ensure that any child who is not required to attend school is either gainfully employed or enrolled in a training program geared to the acquisition of suitable employment or necessary life skills;

 b. Use work assignments only insofar as they provide a family experience for children and are not used as unpaid substitution for adult staff;

 c\* Assign work in accordance with the age and ability of the child and shall schedule work so as not to conflict with other activities in the child's service plan.

 (\*6) Recreation. The facility shall adopt a written plan for a range of indoor and outdoor recreational and leisure opportunities which are provided to children in care. The plan shall be based on:

 a. The individual interests and needs of the children and the composition of the living unit;

 b. Utilization of community recreational resources whenever appropriate.

 (\*7) Religion. The facility shall adopt a written description of its religious orientations particular religious practices that are observed, and any admission restrictions based on religion. The policy shall reflect the facility's consideration for and sensitivity to the racial, cultural, ethnic and religious backgrounds of children in care.

 a. Children shall not be coerced to participate in religious activities.

 b. The facility shall allow each child the opportunity to participate in religious activities and services in accordance with the child's own faith or that of the child's parent(s) or guardian.

 c. Whenever feasible, the facility shall permit the child to attend religious activities and services in the community and, when necessary, shall arrange transportation.

 d. The facility shall consult with the child's guardian in any change in religious affiliation made by the child while in care.

 (8) Health Care.

 a. General. The facility shall adopt a written plan for ensuring the availability and provision of a comprehensive program of preventive, routine and emergency medical, mental health and dental care for children which shall include:

 i. Ongoing appraisal of the general health of each child;

 ii. Provision of comprehensive health education and personal care and hygiene;

 iii. Establishment of an ongoing immunization program;

 iv. An ongoing relationship with a licensed physician, licensed mental health professional and dentist to advise the facility concerning medical, mental health and dental care;

 v. Availability of a physician 24 hours a day, seven days a week; (non-waiverable)

 vi. Access to psychiatric resources appropriate to the needs of the population; (non-waiverable)

 vii. Access to the resources outlined in this plan;

 viii. The use and administration of medication to children in care including procedures for:

 (a) Obtaining prescriptions for medications;

 (b) The administration of prescribed medications ensuring that only staff adequately instructed in the prescribed medication be involved in the administration of that medication;

 (c) Documenting the administration of medication errors and drug reactions;

 (d) Notification of the attending physician in cases of medication errors and drug reactions.

 b. Health Care Services. Subject to the exception contained in Objections to Medical Treatment below, the facility shall provide or arrange health care services to children according to their needs and in accordance with these regulations.

 i. Medical Care

 (a) The facility shall ensure the provision of physical examinations for each child at the following intervals:

 Age of Child Examination Frequency

 Two (2) years - six (6) years Every two (2) years

 Six (6) years and over Every three (3) years

 (b) The facility shall ensure that children receive timely., competent medical care when they are ill and that they continue to receive necessary follow-up medical care.

 ii. Dental Care

 (a) The facility shall ensure that each child over three (3) years of age has a dental examination every six (6) months.

 (b) The facility shall make diligent effort to ensure that a child receives any necessary dental work.

 iii. Corrective Devices. The facility shall make diligent effort to ensure that a child who needs glasses, a hearing aids, a prosthetic device or a corrective device is provided with the necessary equipment or device.

 c. Objections to Medical Treatment.

 The facility shall not require a child in care to receive any medical treatment when the guardian or the child object to such treatment on the ground that it conflicts with the tenets and practices of a recognized church or religious denomination of which the guardian or child is an adherent. If the objection to medical treatment causes a threat of serious ham the facility shall refer the child's care to appropriate medical authorities or Child Protective Services.

 d. Health Records. The facility shall maintain complete health records of a child including:

 i. A past medical history, including, whenever possible:

 (a) Allergies to medication;

 (b) Immunization history;

 (c) History of serious illnesses or injury and major surgery;

 (d) Any, history of abuse and treatment for the abuse of medication or other chemicals;

 (e) Developmental history;

 (f) Medication history.

 ii. Current use of prescribed medication;

 iii. All immunizations provided;

 iv. All medications provided;

 v. All psychotropic medication reports including:

 (a) Documentation of all less restrictive alternatives, either used or diagnostically eliminated prior to use of psychotropic medication;

 (b) Monitoring reports which shall describe any significant changes in the child's appearance or behavior that may be related to the use of medication;

 (c) Any medication errors.

 vi. Any medical consents or releases;

 vii. Visions physical and dental examinations;

 viii. Any treatment provided for specific illnesses or medical emergencies.

 e. Medications

 i. Examination. The facility shall ensure that a child is personally examined by a physician prior to receiving a prescription for medication. In cases of medical emergency, the facility shall ensure that telephone orders for the administration of prescribed medication shall only be placed by a licensed physician.

 ii. Medication Schedule. The facility shall have a written medication schedule for each child to whom prescribed medication is administered which shall contain:

 (a) Name of child;

 (b) Name of prescribing physician;

 (c) Telephone number at which prescribing physician can be reached in case of medical emergency;

 (d) Reason for prescribing medication;

 (e) Date on which medication was prescribed;

 (f) Generic and/or commercial name of medication;

 (g) Dosage level and time of day when medication is to be administered;

 (h) Chart showing the date, time, amount and signature of person administering each dosage of medication;

 (i) Possible adverse side effects of prescribed medication;

 (j) Date on which prescription will be reviewed.

 iii. Copies Provided of Medication Schedule. The facility shall make available child's medication schedule to all staff members responsible for administering the medication to the child and from the child's record.

 iv. Information Provided to Child and Guardian. The facility shall obtain, from the prescribing physician, information regarding the projected benefits and potential side effects of any prescribed medication and shall inform the child and the child's guardian.

 \*f. Psychotropic Medications Policy. The facility shall adopt written policies and procedures governing the use of psychotropic drugs if the facility uses such medication.

 i. This policy shall include:

 (a) Criteria for the use of psychotropic medications;

 (b) Identification of doctors who prescribe psychotropic drugs to children in care and evidence of their qualifications;

 (c) Identification of persons permitted to administer psychotropic drugs and evidence of their qualifications;

 (d) Procedures for obtaining informed consent from the child and the child's guardian;

 (e) Procedures for monitoring and reviewing the use of psychotropic medication including training of staff;

 (f) Record keeping procedures;

 (g) Procedures for reporting undesirable side effects.

 ii. Use of Psychotropic Medication. The facility which uses psychotropic medications shall ensure that usage of medication is in accordance with the goals and objectives of the child's service plan and shall not use such medication unless less restrictive alternatives have either been tried and failed or are diagnostically eliminated.

 (a) The facility shall obtain from the prescribing physician a written initial report detailing the reasons for prescribing the particular medication, expected results of the medication and alerting facility staff to potential side effects.

 (b) The facility shall obtain from either the prescribing physician or another physician a written report on each child receiving such medication at least every 30 days, based on actual observation of the child and review of the daily monitoring reports. Each report shall detail the reasons medication is being continued, discontinued increased in dosage, decrease in dosage or changed.

 (c) The facility shall monitor each child who receives medication on a daily basis. A staff member trained in the recognition of side effects of the medication prescribed shall complete this daily monitoring report.

 (d) The facility shall record any medication errors and drug reactions and shall report such immediately to the physician who ordered the drug.

 (e) The facility shall not subject a child 14 years of age or over to the administration of a psychotropic drug against the child's will unless such administration is permitted emergency pharmacological intervention.

 iii. Psychotropic Medication Consents and Releases. Unless there is a court order to the contrary the facility shall ensure that the guardian of a child for whom medication is prescribed gives prior., informed, written consent to the use of that medication at a particular level of dosage.

 (a) When a child is 14 years of age or over, the facility shall also obtain prior, informed, written consent from the child except when the child lacks the capacity for informed consent.

 (b) Either the child or the child's guardian shall have the right to revoke consent at any time. When consent is revoked the facility:

 (i) Shall cease administration of the medication immediately;

 (ii) Shall inform the prescribing physician;

 (iii) Shall inform the child's guardian if revoked by the child;

 (iv) Shall immediately note in the child's record the date and times, the name of the person administering the medication and the child's stated reason for refusal;

 (v) Shall provide documentation to the child, the child's guardian and the responsible agency regarding the refusal;

 (vi) May, if indicated, seek a court order to continue medication.

 (c) A child who refuses to take medication three (3) consecutive times shall be considered to have revoked consent.

 (d) If consent has been revoked by refusal of medication, the required report shall be signed by two (2) staff members who personally witnessed refusals and if possible, by the child.

 g. First Aid Supplies. The facility shall equip each living unit with first aid supplies. The type, quantity and items to be determined according to the American Red Cross's current guidelines or in accordance with written recommendations from appropriate medical personnel.

 h. Hygienic Standards. The facility shall operate in accordance with, and train and supervise staff in the practice of appropriate hygienic standards for the control of contagious diseases in accordance with standards set by the Office of the State Epidemiologist.

 i. Illness, Accident, Suicide and Death

 i. The facility shall immediately notify the child's guardian and the placing or responsible agency of any serious illness, incident involving serious bodily injury or any severe psychiatric episode involving a child.

 ii. The facility shall immediately notify the child's guardian, the placing agency, and the medical examiner in the event of the death of a child. In the event of sudden deaths the licensing authority shall also be notified.

 iii. The facility shall cooperate in arrangements made for examination, autopsy and burial in the event of death of a child.

 D. Personnel

 The facility shall submit written documentation of rules preceded by an asterisk (\*).

 (\*1) Personnel Policies. The facility shall adopt personnel policies and practices which shall include a description of:

 a. Criteria and procedures for hiring, specifying the conditions under which personnel related to board or other staff serving in an administrative, governing or supervisory capacity are employed;

 b. Procedures regarding discipline suspension or dismissal of its employees.

 c. Procedures for handling employee grievances;

 d. Procedures for regular supervision of each employee;

 e. Criteria and procedures for employee evaluations, both 90 day and annual;

 f. Procedures for facilitating participation and comment by employees in policy making, planning and program development.

 (\*2) Job Descriptions. The facility shall have written job descriptions covering all positions within the facility.

 (\*3) Volunteers. A facility engaging volunteers who have direct contact with the children in care shall adopt a written plan for their use and shall:

 a. Routinely supervise volunteers by a paid staff member;

 b. Orient and train volunteers in the philosophy of the facility, the needs of children in care and methods of meeting those needs;

 c. Perform character and reference checks comparable to those for employment applicants.

 (4) Students. A facility accepting students for field placements shall adopt a written plan for their use which shall include:

 a. A description of the purpose of students involvement with the facility and the students roles and responsibilities;

 b. A description of required qualifications, orientation and training procedures;

 c. The designation of routine supervision provided by an appropriately qualified staff member;

 d. The designation of a liaison between the facility and the school making placements; and

 e. Character and reference checks comparable to those performed for employment applicants.

 (5) Staff: Child Ratios. The facility shall retain a 'sufficient number of qualified employees and shall delegate to them sufficient authority to accomplish the following:

 a. Ensure appropriate staff coverage at all times based on the following factors:

 i. The age, capabilities, functioning levels and program plans of the children in care; and

 ii. The time of day and the size and nature of the facility.

 b. Explain the content and consequences of any contracts consents or releases a child or a child's parent(s) are required to sign;

 c. Carry out the requirements of these regulations and the responsibilities the facility defines within its statement of purpose and program description;

 d. Ensure the immediate availability of additional staff in the event of an emergency or crisis in any living unit of the facility.

 (6) Personnel Qualifications and Responsibilities

 a. General Criteria

 i. Moral Character

 (a) The facility shall not involve any person in the operations, administration, ownership or in the provision of services to children in care who lacks good moral character. The following offenses shall be prima facie evidence of a lack of good moral character:

 (i) Conviction of any crime involving a substantial misrepresentation of any material fact to the public;

 (ii) Conviction of any crime which involves a violent act or a threat of a violent act against a person;

 (iii) Conviction of any crime constituting a sexual offense;

 (iv) History of substantiated child or adult abuse, neglects or exploitation under the child and adult protection laws of this or any other state.

 (b) If the facility determines that a person identified by the above criteria is rehabilitated and that the children in care would not be endangered by the person's. involvement, documentation of evidence shall be placed in the personnel file prior to that person's involvement in any capacity as stated above.

 ii. Substance Abuse. The facility shall not engage any person in the operation, administrations ownership or in the provision of services to children in care if there exists evidence of current substance abuse

 iii. Impaired Ability. The facility shall not hire, continue to employ, or utilize any person whose health, educational , achievement, emotional or psychological makeup render him/her unable to protect the health and safety of the children or is such that it endangers the physical or psychological well-being of the children.

 iv. Qualifications. The facility shall have evidence that all persons providing services to the facility, whether working directly with children in care or providing consultation to employees of the facility, are appropriately qualified, certified and/or licensed as appropriate to the nature of the service.

 v. Detrimental Practices. The facility shall ensure that any person involved in the operation, administration, ownership or in the provision of services to children in care shall not engage in any action or practice detrimental to the welfare of children. Such actions or practices, as defined by the department include but are not limited to:

 (a) Physical, sexual and/or emotional abuse;

 (b) Corporal punishment;

 (c) Neglect in any form;

 (d) Derogatory remarks to or about children or parents;

 (e) Name calling;

 (f) Shaming or embarrassment;

 (g) Breach of confidentiality.

 b. Chief Administrative Officer

 i. The chief administrative officer shall be responsible for the operation of the facility at all times. In the necessary absence of the administrative officer the facility shall designate a qualified person to perform in the above capacity.

 ii. The chief administrative officer, or person authorized to act in place of the administrative officer shall be at least 21 years of age and shall have at least a Bachelor's degree from an accredited school and two years experience in the management and supervision of child care personnel and programs.

 iii. The chief administrative officer shall be reliable, mentally and physically capable of performing Job functions, emotionally well adjusted and be able to demonstrate an understanding of the needs of the children in care.

 c. Staff

 i. The facility shall employ staff members who are mature adults with the capacity to develop a professional orientation to child care, able to relate to children with warmth and understanding, and have the ability to identify the needs and problems of children.

 ii. The facility shall require that each staff member, prior to employment present a medical statement from a health professional verifying the absence of any communicable disease, specific illness or disability which would render him/her unable to perform the duties of the job in a manner which would not endanger the health or safety of the employee, other staff or the children in care.

 (a) Such statement shall be based on an examination performed not more than (6) months prior to employment.

 (b) The facility shall require all employees to update their medical examination periodically in accordance with current medical practice.

 iii. The facility shall not employ any person not possessing the usual qualifications for the positions, as outlined in the job description, unless a written statement is placed in the personnel file demonstrating the person's suitability to carry out the responsibilities of the position.

 iv. The facility shall determine the suitability and capability of all prospective staff, in part, by at least three (3) reliable and satisfactory references from persons not related to the applicant.

 (7) Staff Recruitment. The facility shall actively recruit and., when possible, employ qualified personnel broadly representative of the racial and ethnic groups it serves.

 (8) Personnel File.

 a. The facility shall maintain a personnel file for each staff member which shall contain:

 i. The application for employment and/or resume, including specific residential and employment history;

 ii. Reference letters from former employers and/or personal references or phone notes on such references;

 iii. Record of State Bureau of Identification (SBI) check;

 iv. Any required medical examinations;

 v. Applicable professional credentials and certifications;

 vi. Periodic performance evaluations;

 vii. Personnel actions, other applicable materials, reports, and notes relating to the individual's employment with the facility;

 viii. Starting and termination dates;

 ix. A statement read and signed by the employee which clearly defines child abuse and neglect and outlines the responsibility to report all incidents of child abuse or neglect according to state law, and to report all incidents to the chief administrative officer or the officer's designee;

 x. Documentation of training programs attended.

 b. The facility shall maintain a personnel file for each volunteer having direct contact with the children in care which shall contain:

 i. Volunteer application or resume;

 ii. Reference letters or phone notes of reference checks;

 iii. A statement read and signed by the volunteer which clearly defines child abuse and neglect and outlines the facility's policy for the reporting of abuse and neglect in compliance with state law.

 c. The facility shall provide staff members and volunteers reasonable access to their personnel file and shall allow them to add any written statement.

 d. The facility shall maintain the confidentiality of all personnel records and shall protect the records against loss, tampering and unauthorized use.

 (9) Staff, Volunteer and Student Orientation and Training

 a. Staff, Volunteer and Student Orientation (Non-waiverable)

 i. The facility shall adopt a written plan for orientation which shall familiarize staffs volunteers having direct contact with the children in care and students with the facility's organization, program goals, procedures, program and services.

 ii. The facility shall orient and train all new staff, volunteers having direct contact with the children in care and students in at least the following areas:

 (a) Passive physical restraint techniques, if used;

 (b) Orientation to emergency, safety and hygienic procedures;

 (c) Responsibilities of the staff, volunteer or students position;

 (d) Crisis intervention including the ability to recognize the symptoms of suicide;

 (e) Child abuse policies and procedures;

 (f) Policies and procedures regarding confidentiality;

 (g) Familiarization with appropriate sections of these Rules.

 b. Information Provided to Staff, Volunteers and Students

 i. The facility shall provide copies of the following documents to all staff volunteers having direct contact with the children in care and students:

 (a) Description of the organizational structure;

 (b) Personnel policies and practices;

 (c) Job description for each person's own position;

 (d) Communication policy;

 (e) Child management policies;

 (f) Written plans of basic daily routines.

 ii. The facility shall provide a copy of the volunteer plan to each volunteer having direct contact with the children in care.

 iii. The facility shall provide a copy of the student plan to each student and the student's school.

 iv. The facility shall make copies of all job descriptions available to employees upon request.

 v. The facility shall make a copy of these rules available to all employees., volunteers and students.

 vi. The facility shall provide policies and procedures relative to medication administration to all staff administering medications and to all direct child care staff.

 \*c. Staff Training. (Non-waiverable).

 i. The facility shall adopt a written plan for staff training which is appropriate to the size and nature of the facility and staff.

 ii. The facility shall ensure that each direct service staff member receives at least 40 hours of in service and external training during each full year of employment including:

 (a) The facility's emergency and safety procedures on a semi-annual basis with review of evacuation instructions every two months;

 (b) The principles and practices of hygiene for the control of contagious diseases;

 (c) The principles and practices of child care including case management;

 (d) The facility's administrative procedures and overall program goals;

 (e) Acceptable behavior management techniques;

 (f) Crisis management including the ability to recognize the symptoms of suicide;

 (g) Psychotropic medications, if appropriate to children's needs;

 (h) Review of child abuse policy and procedures;

 (i) Approved first aid instructions;

 (j) Passive physical restraints if used;

 (k) Licensing rules pertinent to daily operation.

 (10) Staff Supervision

 a. The facility shall assign all staff supervisors appropriate to their roles and responsibilities.

 b. Supervisors shall meet with assigned staff on at least a weekly basis.

 c. The facility shall ensure that all staff providing therapeutic services shall have clinical supervision from appropriately trained, licensed and/or certified individuals at regular intervals.

 (11) Staff Evaluation

 a. The facility shall provide within 90 days after employment, each now direct service or administrative staff member with an evaluation of job performance by an assigned supervisor.

 b. Thereafter the facility shall provide a minimum of one written evaluation per year for each staff members signed by the staff person and the evaluator.'

 c. Evaluation conferences shall include:

 i. A review of the staff member's strengths and weaknesses;

 ii. Setting time-limited performance goals;

 iii. Devising training objectives to help meet the goals;

 iv. Establishing a strategy that will allow achievement of the goals and objectives.

 d. The staff member shall be provided an opportunity to express in writing any disagreement with their evaluation.

 e. Each staff member shall be provided with a copy of their evaluation.

 (12) Staff Communications. The facility shall establish procedures to assure adequate communication among staff including any external professional services to provide continuity of services to children in care.

 E. Admission and Discharge

 The facility shall submit written documentation of rules preceded by an asterisk (\*).

 (1) Referral Process

 a. Non-Discrimination in Providing Services. The facility shall not refuse admission to any child on the grounds of race, sex, religion, handicapping condition or ethnic origin. The facility may limit admission on grounds of sex, religion or handicapping condition if the program is not adequately designed to serve this population and cannot meet the specific child's needs.

 b. Out-of-State Referrals. A facility accepting referral of a child who resides in another state shall comply with the terms of the interstate Compact on Juveniles and the Interstate Compact on the Placement of Children.

 c. Placement Limitations.

 i. The facility shall not admit more children into care than the number specified by the license.

 ii. The facility shall not accept any child for placement whose needs cannot be adequately met by the facility's program.

 d. Refusals.

 i. The facility shall document the reason(s) for refusing admission to the referring agency which initiated the admission procedure.

 ii. The facility shall adopt a written procedure for the appeal of any adverse decision relative to non-admission.

 e. Participation in Placement. The facility shall ensure that the child., the child's guardian, the placing agency, and others as appropriate, are provided reasonable opportunity to participate in the admission process and decisions, and that due consideration is given to their concerns and feelings regarding the placement. When involvement of the child's guardian does not occur the reason for the non-participation shall be recorded.

 f. Religion.

 Family expectations. During the referral process the facility shall discuss the religious orientation and policy of the facility with the child and the child's parent(s) or guardian.

 ii. The facility shall determine the wishes, if any, of the parent(s) or guardian and the child regarding the child's religious training and document this in the child's record at admission.

 g. Information Provided to the Placement Agency.

 The facility shall provide copies of the following documents to each agency placing children with the facility:

 i. Communication Policy.

 ii. Religion Policy.

 iii. Admissions Policy and Procedures.

 iv. Aversives and Other Special Situation Therapies.

 v. Child Management Policy and Procedures.

 (2) Admissions.

 \*a. The facility shall adopt a written description of admissions policies and criteria which shall include:

 i. Preplacement requirements of the child, the guardian and the placing agency;

 ii. Identification of the specific eligibility criteria including:

 (a) Age range;

 (b) Sex;

 (c) Religion;

 (d) Geographic residency;

 (e) Physical development and health needs and problems;

 (f) Social behavior which is best addressed by the facility's program;

 (g) Custody or guardianship status;

 (h) Intellectual capability and limitations.

 iii. Intake policies and procedures.

 b. The facility shall, when applicable, have policies and procedures governing self-admission which shall include procedures for notification of guardians.

 c. The facility shall explain the content and consequences of any contracts, consents or releases a child or a child's guardian(s) are required to sign.

 d. Child Orientation. During the first full day of a child's placement the facility shall assign a staff member to orient the child regarding emergency procedures and the location of emergency exits. A written confirmation that such orientation has occurred shall be placed in the child's case record.

 e. Information Provided to Child. As part of the admission orientation the facility shall make available the following:

 i. Consistent with the child's maturity and ability to understand, the facility shall make clear its expectations and requirements for behavior and shall explain the facility's criteria for successful participation in and completion of the program;

 ii. A copy of the rules governing conduct and consequences of inappropriate behavior by children in care is available;

 iii. A copy of the facility's policy governing visiting and other forms of communication with family., friends and other persons important to the child;

 iv. A description of the religious orientation and practices observed by the facility;

 v. A description of the facility's education plan;

 vi. A copy of grievance procedures upon request.

 f. Information Provided to Guardian(s). Prior to placement, whenever possible, the facility shall provide the guardians with written information which shall include:

 i. A description of the philosophy of the facility;

 ii. A description of normal daily routines;

 iii. A description of behavior management and disciplinary practices at the facility;

 iv. Any specific treatment strategies employed by the facility;

 v\* Visiting hours and other procedures related to communication with children;

 vi. A description of the procedure which the guardian may use to register complaints;

 vii. A description of any required religious observance;

 viii. A description of the education plan or program offered by the facility;

 ix. The name and telephone number of a staff person whom the guardian may contact on an ongoing basis.

 (3) Admission Procedures.

 a. Intake Evaluation. The facility shall accept a child into care only when a current comprehensive intake evaluation including social, health and family history., educational and, if appropriate, psychological and developmental assessment, including history of prior suicidal gestures has been reviewed. This evaluation shall contain evidence that a determination has been made that the 'residential placement is appropriate for the child.

 i. Medication 'Assessment. Upon admission, the facility shall ascertain all medication a child is currently taking and determine whether a physician should be consulted to review the medication needs of the child considering the changed living circumstances.

 ii. Physical Examination. Within a week of the child's admission the facility shall arrange a general physical exam by a health professional unless the child has received such an examination within 30 days prior to admission and the results of this examination are provided to the facility. The physical examination shall include at least the following:

 (a) An examination of the child for physical injury and disease;

 (b) Vision and hearing tests;

 (c) A current assessment of the child's general health;

 (d) Whenever indicated, a referral to an appropriate medical specialist for further assessment or treatment.

 iii. Dental Examination. Within sixty (60) days of admission the facility shall ensure that the child has a dental examination unless the child has been examined within six (6) months prior to admission and the facility has received the results of this examination.

 b. Emergency Admissions. In an emergency situation requiring immediate placement, the facility shall gather as much information as possible about the child to be admitted and the circumstances requiring placement.

 i. The facility shall record this information in an "emergency admission note" within two (2) days of admission which shall include social health, family history educational background, legal status, other pertinent data including a statement defining the need for residential services.

 ii. The facility shall complete the intake evaluation within thirty (30) days of admission.

 (4) General Record Keeping. The facility shall maintain a written record for each child in care which shall include administrative treatment and educational data from the time of admission until the time the child leaves the facility. All entries shall be legible, signed by the person making the entry and accompanied by the date on which the entry was made.

 a. Each child's case record shall include at least the following:

 i. The name, sex, race, religions, verified birthdate and birthplace of the child;

 ii. The name, address, telephone number and marital status of the parent(s) of the child;

 iii. Date of admission and source of referral;

 iv. The name, address, telephone number and relationship to the child of the person with whom the child was living if the child was not living with his/her parent(s) prior to admission;

 v. All documents related to the referral and admission of the child to the facility;

 vi. Documentation of the current custody and legal guardianship;

 vii. The child's court status, if applicable;

 viii. Consent forms signed by the guardian prior to placement allowing the facility to authorize all necessary medical care, medications, routine tests, Immunization and emergency medical or surgical treatment;

 ix. Cumulative health records;

 x. Education records and reports;

 xi. Treatment or clinical records and reports including notes monitoring the child's progress toward service plan goal s;

 xii. Records of special or critical incidents including all accidents, personal injuries and pertinent incidents related to implementation of the child's service plan;

 xiii. Service plans and related material;

 xiv. Date of discharge, reason for discharge and the name, telephone number and address of the person or agency to whom the child was discharged.

 (5) Placement Agreement.

 a. The facility shall negotiate written placement agreements which shall include by reference or attachment:

 i. The nature and goals of care, including any specialized services to be provided;

 ii. The religious orientation and practices of the child;

 iii. Description of the roles and responsibilities of all agencies and persons involved with the child and child's family;

 iv. Authorizations to care for the child;

 v. Authorizations to obtain routine and emergency medical care for the child;

 vi. Designation of responsibility for routine medical arrangements;

 vii. Arrangements regarding visits, mail telephone calls, vacations gifts and family contact and involvement;

 viii. Identification of the sources, terms and methods for paying the child's board and other expenses.

 b. The facility shall ensure that a written placement agreement is signed by and provided to the child' the guardian, and the representative of the placement agency as well as other parties involved in its formation. Where the involvement of any of these is not feasible or desirable the reason(s) for the exclusion shall be recorded.

 (6) Service Planning. The facility shall adopt written procedures used for individual service planning in accordance with the following:

 a. Assessment. The facility shall complete a comprehensive assessment to update the intake evaluation within thirty (30) days of admission.

 i. The assessment shall consider the needs and strengths of the child in the areas of health care, education, personal and social development, mental health, family relationships, vocational training, recreation, and life skills development.

 ii. All methods and procedures used in this assessment shall consider the child's age, cultural background and dominant language or mode of communication.

 b. Service Plan. The facility shall develop a written, time-limited, goal-oriented individual service plan for each child which includes:

 i. Findings of the assessment;

 ii. Identification of the services and treatment to be provided to meet the needs of the child;

 iii. Specification of any specialized services or treatment to be provided or arranged and means of ensuring their provision and monitoring as needed;

 iv. Short and long-term goals for the child and the child's family including:

 (a) Strategies for developing positive family relationships;

 (b) Permanency planning for the child;

 (c) Means of evaluating the progress toward these goals.

 v. Identification of persons responsible for implementing or coordinating implementation of the service plan;

 vi. Preliminary time-limited goals for discharge and aftercare.

 \*c. Clinical Consultant. (Non-waiverable) The facility shall have written evidence that the person providing clinical supervision in the development of a child's individual service plan and its periodic reviews has an advanced degree in psychology, psychiatry, social work or related field and experience in providing direct services to children.

 d. Participants in Service Planning. The facility shall ensure that the assessment and service planning are conducted by a planning team.

 i. This team shall include:

 (a) Staff responsible for implementing the service plan on a daily basis;

 (b) Representative(s) of the placing agency;

 (c) School personnel;

 (d) The child, unless contraindicated;

 (e) The child's guardian, unless contraindicated;

 (f) Other persons significant in the child's life;

 (g) Clinical consultants.

 ii. When any of the above do not participate., the facility shall include within the child's case 'record a written statement documenting its efforts to involve the person.

 iii. When the involvement of guardian or child is contraindicated, the reason(s) shall be documented in the child's case record.

 iv. The service plan shall be signed by the chief administrator of the facility or his/her designee; a representative of the placing agency and/or responsible agency or person; the clinical consultant; the child, if appropriate; and the child's guardian, if appropriate.

 e. Periodic Review.

 i. The facility shall review each service plan at least once every six months, shall evaluate progress toward established goals and shall revise the service plan as appropriate to the needs of the child.

 ii. The planning team and documentation that are required above shall be required in all service plan reviews.

 iii. If review and revision of a child's service plan is necessary prior to the facility's regularly established review date, the service plan shall document this decision and identify the date for such review.

 f. External Professional Services. The facility shall obtain externally any professional services required for the implementation of a child's service plan which are not available within the facility.

 g. Explanation of Service Plan. Unless it is not feasible to do so the facility shall explain the service plan and any subsequent revisions to the child and the child's guardian in language understandable to them.

 (\*7) Aversives and Other Special Situation Therapies. The facility shall not use any specific treatment strategies which modify a particular behavior and involve an intrinsic risk or involve unusual or potentially hazardous treatment to children without prior approval by the licensing authority. Proposals for the facility's use of such strategies shall be submitted in writing and shall include:

 a. The names position and qualifications of the person who has direct responsibility for supervising the treatment program;

 b. Staff competencies and qualifications;

 c. The types of behavior or conditions for which such procedures and techniques are to be used;

 d. The range of procedures and techniques to be used;

 e. Requirements, where appropriate for medical examination of a child prior to implementation of the treatment;

 f. Provisions for ongoing monitoring and recording of each child's response and provisions for making adjustments ins. or termination oft the treatment as appropriate;

 g. Procedures for obtaining the informed, written consent from the child's guardian and the child, if appropriate to the child's capability. Such consent shall include:

 i. The dated signature of the consentee;

 ii. A statement that the guardian and child, as appropriate, have been provided the following information:

 (a) A description of the procedures and techniques proposed and reasons why the treatment is determined appropriate;

 (b) Expected benefits of the treatment;

 (c) A description of the less restrictive techniques and strategies attempted and found unsuccessful;

 (d) Duration of the treatment;

 (e) Intrinsic risks, including side effects;

 (f) The option to give or withhold consent to the proposed treatment; and

 (g) Who the guardian or child may obtain answers from concerning the treatment.

 (8) Termination Procedures

 a. Discharge and Aftercare.

 At least three months prior to discharge, except in the case of an emergency discharges, the facility shall prepare an aftercare plan identifying the supports and resources required by the child's continuing needs. Requirements in rule 4.E.6. regarding planning team and documentation shall be required for all discharge and aftercare planning.

 i. When a child is being placed in another program following discharge, the planning team shall, whenever possible, meet with representatives of that program prior to the child's discharge to share information concerning the child. When this is not possible, the facility shall document the reason(s) in the child's record.

 ii. Prior to discharge the facility shall assist the child to understand their aftercare plan.

 iii. Upon discharge the facility shall provide a copy or summary of the child's complete health record, including current medications to the person or agency responsible for the future planning and care of the child.

 b. Emergency Discharge

 \*i. The facility shall adopt written policies and procedures for emergency discharges and discharges not in accordance with children's service plans.

 ii. In cases of emergency discharge the facility shall immediately notify the placement agency or person and shall consult with the placement agency or person prior to discharge.

 c. Discharge Report. When a child is discharged, the facility shall compile a written summary within a month of the date of discharge.

 i. The discharge summary shall include:

 (a) The names, address, telephone number and relationship of the person to whom the child was discharged;

 (b) A summary of services provided during care including prescribed medications;

 (c) A summary of growth and accomplishments during care;

 (d) The assessed needs which remain to be met and alternate service possibilities which might meet those needs;

 (e) As appropriate, recommendations for an aftercare plan and identification of who is responsible for follow-up services.

 ii. When the discharge date was not in accordance with the child's service plans the following items shall be added to the above summary:

 (a) The circumstances leading to the unplanned discharge;

 (b) The actions taken by the facility and the reason for these actions.

 (\*9) Unauthorized Absences. The facility shall have written policies and procedures for determining and reporting situations of unauthorized absence of a child in care including notification of the child's guardian, the placing agency, and the appropriate law enforcement official within a reasonable period of time.

 F. Environment and Safety

 The facility shall submit written documentation of rules preceded by an asterisk

 (\*1) Location and Floor Plan. (Non-waiverable) The facility shall prepare a description of the location and a sketch of the floor plan including:

 a. Evidence that the site location of the facility is appropriate to children in terms of individual needs, program goals and access to services.

 b. Documentation that the facility is in compliance with zoning laws of the municipality in which the site is located.

 (2) Other Approvals or Certifications. Every building or part of a building used as a residential child care facility shall be constructed used, furnished, maintained and equipped in compliance with all requirements established by federal, state and municipal regulatory authorities.

 a. Health. The facility shall obtain from appropriate officials evidence of approval with all applicable laws and ordinances to protect the health, safety and well-being of the children in care,

 b. Lead Poisoning. (Non-waiverable) Prior to initial licensure any facility which plans to accept children under the age of six years or who are mentally retarded or severely emotionally disturbed shall be tested for and found to be free of lead paint hazard.

 c. Life Safely. (Non-waiverable) The facility shall prior to initial operation and on an annual basis receive approval from the State Fire Marshal's Office or designee.

 d. Water Supply. (Non-waiverable) The facility shall prior to initial operation and annually thereafter submit a written satisfactory water analysis report completed by the Maine Department of Human Services, Division of Health Engineering or other approved laboratory if the facility's water is from any source other than an approved public water supply.

 e. Animals. The facility shall ensure that all animals residing at the facility have current and appropriate vaccinations as required by law.

 (3) Building Exterior and Grounds.

 a. Structures.

 i. The facility shall maintain all structures on the grounds of the facility in good repair and free from danger to health or safety.

 ii. Outside doors, windows and other features of the structure necessary for security from weather shall be repaired within 24 hours of being found to be in a state of disrepair.

 b. Grounds. The facility shall maintain the grounds in a manner which ensures that the grounds are free from any hazard to health or safety.

 i. Garbage and rubbish which is stored outside shall be stored securely in noncombustible, covered containers separate from play areas and shall be removed on a regular basis not less than weekly.

 ii. Fences shall be in good repair.

 iii. Areas deemed by the licensing authority to be unsafe, such as, steep grades, cliffs, open pits, swimming pools, high voltage boosters, or high speed roads, shall be fenced off or have natural barriers to protect children.

 iv. Playground equipment shall be located, installed and maintained to ensure the safety of children.

 (4) Interior Spaces. The facility shall structurally accommodate the physical needs of each child in care.

 a. Administrative and Counseling Space.

 i. The facility shall provide a space which is distinct from children's living areas to serve as an administrative office for records, secretarial work and bookkeeping.

 ii. The facility shall have a designated space to allow private discussions and counseling sessions between individual children and staff.

 b. Staff Quarters. A facility utilizing live-in staff shall provide adequate separate living space for these staff.

 c. Interior Structures

 i. Furnishings.

 (a) The facility shall have comfortable furniture, as appropriate, for all living areas. Furniture for the use of children shall be appropriately designed to suit the size and capabilities of the children.

 (b) There shall be evidence of routine maintenance and cleaning programs in all areas of the facility.

 (c) The facility shall replace or repair broken, run-down or defective furnishings and equipment.

 ii. Doors and Windows.

 (a) The facility shall provide insect screening for all windows used for ventilation unless the facility is centrally air-conditioned.

 (b) This screening shall be readily removable in emergencies and shall be in good repair.

 (c) The facility shall have doors on al 1 closets, bedrooms and bathrooms that can be readily opened from both sides.

 d. Electrical Systems. The facility shall maintain all electrical equipment, wiring, switches, sockets and outlets in good order and safe condition.

 i. Any rooms, corridor or stairway within a facility shall be sufficiently illuminated.

 ii. Corridors within a facility's sleeping areas shall be illuminated during the night relative to the needs of the children.

 iii. Adequate lighting of exterior areas shall be provided to ensure the safety of children and staff at night.

 e. Heat.

 i. The facility shall install and insulate heating elements, including hot water pipes in a manner that ensures the safety of children if accessible to children.

 ii. The facility shall remove or encapsulate any friable asbestos insulation existing within the building.

 iii. The facility shall maintain the spaces used by children at temperatures that do not jeopardize children's health.

 f. Water. Water accessible to children for personal use shall be regulated to a temperature not in excess of 120 F.

 g. Finishes and Surfaces.

 i. The facility shall not utilize any excessively rough surface or finish where it may present a safety hazard to children.

 ii. The facility shall ensure that walls and ceilings are not surfaced with materials containing asbestos except as allowed by law for protection from wood or peat burning stoves.

 iii. The facility shall not use paint which contains lead for any purpose on the interior or exterior of any facility structure or recreation equipment.

 h. Limited Access Areas. The facility shall restrict children from unsupervised access to areas not used as living space unless in programmatic use,

 i. Storage. The facility shall have securely locked storage spaces for all potentially harmful materials.

 i. Poisonous or toxic materials shall be stored in locked storage spaces that are not used for any other purpose.

 ii. Containers of poisonous, toxic or flammable materials shall be prominently and distinctly marked or labeled for easy identification as to contents and shall be stored and used only in such manner and under such conditions as will not contaminate food or constitute a hazard to children or staff.

 j. Kitchens.

 i. The facility shall equip kitchens used for meal preparation with the necessary items for the preparation, storage serving and clean up of all meals.

 ii. All kitchen equipment shall be maintained in working order and kept in sanitary condition.

 iii. The facility shall not use disposable dinnerware on a regular basis unless the facility documents that such dinnerware is necessary to protect the health or safety of children in care.

 iv. The facility shall provide each living unit with a snack preparation space.

 k. Dining Area.

 i. The facility shall provide dining areas which permit children, staff and guests to eat together.

 ii. The facility shall provide dining areas which are clean, well lighted and ventilated.

 l. Living Rooms, Lounges.

 i. Each living unit of a facility shall contain a space for the informal use of children; constructed and equipped in a manner consistent with the programmatic goals of the facility.

 ii. The facility shall provide interior spaces for a variety of recreational activities.

 m. Sleeping Areas.

 i. The facility shall provide a designated area for rest and sleep for each child.

 ii. Each bedroom space shall have:

 (a) At least 74 square foot floor area for a single occupant;

 (b) At least a 50 square foot floor area for each occupant in a multiple sleeping area;

 (c) A direct source of natural light;

 (d) Windows which open or a mechanical ventilation system.

 iii. The facility shall allow no more than four (4) children to occupy a designated bedroom space without prior approval from the licensing authority.

 iv. The facility shall provide each child with a bed. The bed shall:

 (a) Be proportional to the child's height and no less than 30 inches wide;

 (b) Be solidly constructed;

 (c) If a bunk bed provide sufficient head room to allow the upper occupant to sit up;

 (d) If a bunk bed, be limited to double bunk beds.

 v. Sheets, pillow cases and blankets shall be provided for each child.

 vi. Sheets and pillow cases shall be changed at least weekly and more frequently if necessary.

 vii. Water resistant bedding shall be utilized when necessary.

 viii. Each child shall be provided with a dresser or other adequate storage space and a designated space for hanging clothing in proximity to the child's bedroom.

 ix. The facility shall allow some scope for the personal tastes and expressions of the children in the decoration of sleeping areas.

 x. Non-porous wall surfaces shall be utilized in bedroom areas as appropriate to a child's needs.

 n. Bathrooms. The facility shall provide that bathrooms:

 i. Have a minimum of one (1) wash basin, one (1) bath or shower, and one (1) toilet for every six (6) children in care;

 ii. Have a safe and adequate supply of tempered and cold running water;

 iii. Have bathtubs and showers with slip-proof surfaces;

 iv. Have toilets and baths or showers which allow for individual privacy;

 v. Contain mirrors secured to the walls at convenient heights and other furnishings necessary to meet each child's basic hygiene needs;

 vi. Are equipped to facilitate maximum self-help by children and/or large enough to permit staff assistance of children, if necessary;

 vii. Are properly equipped with toilet papers towels, soap and other items required for personal hygiene unless children are individually provided such items;

 viii. Are maintained in good operating condition and kept in sanitary condition.

 (5) Nutrition.

 a.\* The facility shall provide each child with food of such quality and in such quantity as to meet daily dietary needs adjusted for age, gender and activity.

 i. No child shall be denied a meal for any reason except according to a doctor's orders.

 ii. No child shall be force-fed or otherwise coerced to eat against his/her will except by order of a doctor.

 b. The facility shall ensure that, at all meals served at the facility, staff eat substantially the same food served to children in cards, unless age differences or special dietary requirements dictate differences in diet.

 c. The chief administrative officer shall designate a person with an understanding and knowledge of nutrition, or who is supervised by someone with an understanding and knowledge of nutrition, who shall be responsible for menu planning or the supervision of menu planning of the facility.

 d. The facility shall make provision for children with special dietary needs.

 e. The facility shall maintain a record of menus utilized by the facility and shall document any substitutions.

 (6) Personal Care and Hygiene. The facility shall provide guidance in good habits of personal care, hygiene and grooming appropriate to children's age, sex, race and culture.

 (7) Personal Possessions.

 a. The facility shall allow a child to bring possessions to the facility, and to acquire possessions in accordance with the child's service plan.

 i. The facility may, as necessary, limit or supervise the use of these items while the child is in care.

 ii. Where limitations exceeding the usual policy are imposed, the facility shall inform the child of the reason(s) for the decision and reason(s) shall be recorded in the child's case record.

 iii. The facility shall make provisions for the protection of the child's property and return upon discharge.

 b. Clothing, The facility shall ensure that each child has adequate, well-fitting and seasonable clothing as required for health, comfort and physical well-being and as appropriate to ages, sex and individual needs.

 i. When uniforms are required, the facility shall advise the child and the child's guardian prior to admission.

 ii. A child's clothing shall be identifiably their own and shall not be shared in common.

 iii. Children's clothing shall be kept clean and in good repair.

 (a) Children shall be involved in the care and maintenance of their clothing.

 (b) Laundering, ironing and sewing services shall be accessible to children, as appropriate.

 iv. Provisions for clothing needs shall be made at the time of the child's discharge.

 v. All personal clothing shall go with the child at the time of formal discharge.

 c. Children's Money.

 i. Possession and Limitations. The facility shall permit a child to possess his/her own money either by giving an allowance, by providing opportunities for paid work within the facility and/or through outside employment, unless otherwise indicated by the child's service plan.

 (a) Money earned, received as a gift or received as allowance by a child shall be deemed to be that child's personal property.

 (b) Limitations may be placed on the amount of money a child may possess or have unencumbered access to when such limitations are considered to be in the child's best interests and are duly recorded in the child's service plan.

 ii. Expenses. The facility shall not ask a child to assume expenses for care and treatment with the exception that an older child may be asked to pay some of his/her room and board and related expenses in accordance with the child's individual service plan.

 iii. Repayment of Damages. A facility may deduct reasonable sums from a child's allowance as restitution for damages done by the child if such a restitution plan is duly recorded in the child's service plan. Restitution shall be negotiated with the child and the guardian based on the ability to pay.

 iv. Accounting System. The facility shall maintain a separate accounting system for children's money.

 (8) General Safety Practices.

 \*a. Emergency Procedures. (Non-waiverable) The facility shall adopt written procedures for staff and children to follow in case of emergency or disaster which shall be developed with the assistance of qualified fire, health and safety personnel and shall include (a copy of items i. and ii. shall be readily available at all times within the facility.)

 i. Provisions for the evacuation of building;

 ii. Assignment of staff during emergencies;

 iii. Appropriate notification of guardians, the placement agency and the licensing authority of a fire or other disaster which might endanger or require relocation of children for reasons of health and safety;

 iv. Procedures for medical emergencies which define the circumstances that constitute such an emergency and include instructions to staff regarding their conduct.

 b. Emergency Practices.

 i. The facility shall post the fire evacuation procedures in conspicuous locations throughout the building.

 ii. The facility shall instruct children and staff in fire prevention and train all personnel on all shifts to perform assigned tasks during emergencies, including the use and location of fire fighting equipment.

 iii. The facility shall train staff and children to report fires and other emergencies in accordance with the written emergency procedures above.

 iv. The facility shall conduct emergency drills at least six (6) times per year which shall include actual evacuation of children to safe areas. Twelve (12) drills shall be conducted the first year of operation.

 (a) A record of such emergency drills shall be maintained, noting dates and time, evacuation time and exits used.

 (b) All persons in the building shall participate in emergency drills.

 (c) Emergency drills shall be held at unexpected times and under varying conditions to simulate the possible conditions in case of fire or other disasters.

 (d) Special provisions for the evacuation of any physically handicapped children shall be made.

 (e) Special care to help emotionally disturbed or perceptually handicapped children understand the nature of such drills shall be made.

 c. Safety Program. The facility shall maintain an active safety program including investigation of all accidents and recommendations for prevention.

 d. 24 Hour Telephone Service.

 i. The facility shall equip each separate living unit within the facility with 24 hour telephone service or an intercom system connected with an outside telephone service.

 ii. The facility shall conspicuously post adjacent to the telephone emergency telephone numbers including fire, police, physicians. poison control., health agency and ambulance.

 \*e. Firearms. If a hunting program is offered, the facility shall adopt written policies and procedures regarding the possession, maintenance, security and use of firearms which shall include:

 i. Identification of children eligible and appropriate for such a program;

 ii. Supervision at all times of any child handling a firearm;

 iii. Documentation within each applicable child's case record of his/her appropriateness;

 iv. Storage of firearms and ammunition in a locked, secure place;

 v. Restriction of firearms to rifles for sport;

 vi. Restriction of firearms to children 14 years of age and over who possess:

 (a) Documentation indicating satisfactory completion of a hunter safety course since the child's 14th birthday; and

 (b) A valid State of Maine hunting license.

 vii. Restrictions of the storage of firearms and ammunition from living and sleeping areas used for children;

 viii. Secure storage of ammunition and firearms separate from each other.

 f. Restrictions on Firearms and Other Weapons. The facility shall not maintain weapons on the grounds or within the structures of the facility and shall not maintain any firearm unless a policy has been submitted to the licensing authority.

 i. The facility shall prohibit any staff member or child from possession of any weapon on the grounds or within the structure of the facility.

 ii. Security guards patrolling the grounds and structures of the facility, whether employed by the facility or by a security service under contract to the facility, shall be prohibited from possession of any firearm or chemical weapon on the grounds or within the structure of the facility.

 g. Candles. The facility shall prohibit candles in sleeping areas,

 h. Porches, Elevated Walkways and Elevated Areas. The facility shall have barriers to prevent falls from porches, elevated walkways and elevated areas.

 i. Exits. The facility shall maintain every required exit free of all obstruction or impediments to immediate use in the case of fire or other emergency.

 j. Power Driven Equipment. The facility shall maintain power driven equipment in safe and good repair and shall only allow such equipment to be used under the supervision of a staff member and consistent with applicable laws and regulations.

 k. Swimming Areas:

 i. The facility shall test an on-grounds swimming pool daily and maintain it free from contamination in accordance with Department of Human Services, Division of Health Engineering standards.

 ii. The facility shall have on duty when children are swimming an individual who has a current water safety instructor certificate or senior lifesaving certificate from the Red Cross or its equivalent.

 l. Recreational Activities:

 i. The facility shall assess the capability of any child to participate in any potentially dangerous or unsafe recreational activity.

 ii. The facility shall provide for appropriate and adequate staff supervision for children during potentially dangerous or unsafe recreational activities.

 (9) Transportation. The facility shall provide for the transportation necessary for implementing the child's service plan.

 a. Emergency Transportation. The facility shall have means of transporting children in cases of emergency.

 b. Supervision. The facility shall provide for adequate supervision in any vehicle used to transport children.

 c. Disabilities of Children.

 i. The facility shall inform the operator of any vehicle transporting children of any need or problem of a child which might cause difficulties during transportation, such as seizures., a tendency towards motion sickness or a disability.

 ii. A facility serving handicapped, nonambulatory children shall provide for the accessibility to appropriate transportation.

 d. Vehicle Requirements. The facility shall require all vehicles used for the transportation of children to be in a safe condition, in conformity with all applicable motor vehicle laws and equipped in a fashion appropriate for the season.

 i. Any person authorized by the facility to transport children shall be properly licensed to operate that class of vehicle.

 ii. The facility shall prohibit the number of persons in any vehicle to exceed the number of available seats in the vehicle.

5. STATUTORY AND ADMINISTRATIVE

 A. Application/Reapplication for Licensure

 (1) Application. Any person who intends to operate a Residential Child Care Facility shall file an application for a license in a manner and on a form prescribed by the Department. The applicant shall be the owner of the facility or the person designated as having full responsibility for the administration of the agency. Initial contact for the purpose of requesting a license application may be made, as appropriate, to one of the three departments responsible for licensing.

 (2) Renewal of License. A facility seeking to renew its current license shall file a renewal application in a manner and on a form prescribed by the department not less than sixty (60) days prior to the date of expiration of its license. When a facility has made timely application for renewal the existing license shall remain in effect until the Department takes action on such application.

 a. For renewals subsequent to issuance of a provisional or conditional license the facility shall submit documentation of full compliance with these rules.

 b. For all renewals the facility shall submit the following documents at the time of re-application:

 i. Financial Report. An updated budget and financial report which demonstrates the facility's financial capability to carry out its program for the licensing period.

 ii. Documentation of Changes, Any documentary information which has changed since the time of its previous application.

 iii. Waiver Request, Any request for waiver of a particular regulation or renewal of any waiver granted under current licensure.

 (3) Change of Ownership or Location.

 A license shall not be transferable from one licensee to another, one location to another or from one facility to another.

 (4) Role of the Department.

 a. Issuance of License. Upon receipt of an application for a license or renewal thereof, the department shall inform the applicant of the steps it will follow in the licensing process which shall include interviews, site visits, review of records, and technical assistance related to meeting and maintaining licensing requirements. The department shall issue a license if it finds the applicant in compliance with these rules.

 b. Request Fire and Safety Inspection. application for a license or renewal thereof, the department shall contact the State Fire Marshal's Office to request an inspection of the applicant's physical plant to ensure compliance with appropriate state and local regulations regarding safety. The department shall request copies of such inspection reports.

 c. Visits to Determine Compliance. Any employee authorized by the department shall, at any reasonable time, have the right of entry and may inspect the facility and any records required by these rules in order to determine compliance with law and with rules established by the department. The employee shall have access, in private, to any resident of the facility for the purpose of investigating a suspected violation of law and/or rules established by the department. An employee authorized by the department may enter a facility which the department knows or believes is operated without a license only with the permission of the owner or person in charge 'or with a search warrant from the District Court authorizing entry and inspection.

 d. Availability of Information. The department shall have access to any information which the facility is required to have under these rules and any information reasonably related to assessment of compliance with these rules.

B. Terms and Types of Licenses

 No person shall operate a Residential Child Care Facility without a license from the department.

 (1) Provisional License. A provisional license shall be issued by the department to an applicant who:

 · Has not previously operated the facility for which the application is made or is licensed but has not operated during the term of that license

 . Complies with all applicable laws and rules, except those which can only be complied with once clients are served by the applicant; and

 · Demonstrates the ability to comply with all applicable laws and rules by the end of the provisional license term.

 The provisional license shall be issued for a minimum period of 3 months or a longer period, as deemed appropriate by the department, not to exceed 12 consecutive months.

 (2) Full License. The department shall issue a full license to an applicant who complies with all applicable laws and rules. A full license is valid for two years from the date of issuance unless revoked, suspended or made conditional.

 (3) Conditional License. A conditional license may be issued by the department when the individual or agency fails to comply with applicable law and rules and, in the judgment of the commissioners, the best interest of the public would be so served by issuing a conditional license. The conditional license shall specify when and what corrections must be made during the term of the conditional license.

 The conditional license shall be issued for a specific periods, not to exceed one year, or the remaining period of the previous full license, whichever the department determines appropriate based on the laws and rules violated.

 C. Sanctions and Corrective Actions

 (1) Options Available to the Department.

 Whenever the department finds that a person operating a Residential Child Care Facility or an applicant is not in compliance with any applicable rules, the department may take certain actions. The department shall notify the licensee of the opportunity to request an administrative hearing or shall file a complaint with the Administrative Court in accordance with the Maine Administrative Procedure Act, 5 MRSA 58001 et seq. (pursuant to 22 MRSA §7802 (3)(D)).

 a. Notification of Action and Order of Correction. The department except in cases of emergency, shall ensure that every notification of action and order of correction is in writing and provided to the facility 15 days in advance of the final date of correction.

 i. Content of Orders. Orders of Correction shall be in writing and shall include an identification of the law and regulations violated, reasons for citing the violations. period of time within which the violations must be corrected, notice of the licensee's right to request a hearing, if so desired, and the consequences of failure to meet conditions or request a hearing.

 ii. Sending of orders. Orders of Correction shall be sent to the administrative officer of the facility and a copy shall be sent to the governing body of the facility.

 b. Refusal to Issue or Renew. When an applicant fails to comply with applicable law and rules, the department may refuse to issue or renew the license.

 c.\* Issuance of Conditional License. If, at the expiration of a full or provisional license or during the term of a full license the facility fails to comply with applicable law and rules and, in the Judgment of the commissioner, the best interest of the public would be served, the department may issue a conditional license or change a full license to a conditional license.

 d. Voiding a Conditional License. Failure by the conditional licensee to meet the conditions specified by the department shall permit the department to void the conditional license or refuse to issue a full license. The conditional license shall be void when the department has delivered in hand or by certified mail a written notice to the licensee or, if the licensee cannot be reached for service in hand or by certified mails has left written notice thereof at the agency or facility. The term "licensee" means the person, firm, corporation or association to whom a conditional license has been issued.

 e. Amend or Modify a License. The department may amend or modify a license as referred to in 22 MRSA §7802(5)(B).

 f. Emergency Suspension. Whenever, upon investigation, conditions are found which, in the opinion of the department, immediately endanger the health or safety of persons living in or attending a facility, the department may request the Administrative Court for an emergency suspension pursuant to 4 MRSA §1153.

 g. Suspension, Revocation. Any license issued may be suspended or revoked for violation of applicable law and rules, committing, permitting, aiding or abetting any illegal practices in the operation of the facility or conduct or practices detrimental to the welfare of persons living in or attending the facility. When the department believes that a license should be suspended or revoked, it shall file a complaint with the Administrative Court as provided in the Maine Administrative Procedure Act, 5 MRSA §10001.

 (2) Facility's Appeal Procedures

 Once the department determines that a licensee is not in compliance with a regulation and has determined what action shall be taken, the facility may avail itself of the following:

 a. Request for Administrative Hearing. Within 10 days of receipt of the Order of Correction the facility may file a written request with the department for an administrative hearing. If the request for hearing is received within this period, the proposed action will not take effect until after the hearing. In any proceeding determined by the department to involve issues of substantial interest, the department shall notify the public in accordance with 5 MRSA §9052.

 b. Failure to Request a Hearing. In the event the facility falls to request a hearing within 10 days of the notice of action, the action will take effect at the expiration of the 10 day period.

 c. Appeal Procedures: A facility aggrieved by a court order or hearing decision may appeal the decision by the following means:

 d. Administrative Hearing. A facility aggrieved by a decision issued as a result of the department's administrative hearing, may file, within 30 days of the notice of the decisions. a complaint with the Superior Court as provided in 5 MRSA §11002.

 e. Administrative Court. A facility aggrieved by the decision of the Administrative Court shall be entitled to judicial review in Superior Court as provided in 5 MRSA 5511001 et seq.

 f. Supreme Judicial Court. A facility aggrieved by the decision of the Superior Court shall be entitled to judicial review in the Supreme Judicial Court as provided in 5 MRSA §11008.

 (3) Reapplication Following Adverse Actions.

 A facility which has been denied a provisional license, issued a conditional license or whose current license has been modified, conditionalized, suspended, revoked, voided or refused for renewal may reapply for licensure when the deficiencies identified by the department have been corrected.

6. SPECIAL MODULE RULES

 A. Education Rules - Residential Child Care Facility with an Education Program.

 Those facilities directly providing an educational program shall comply with the Core Rules and the following Special Rules directed towards the provision of an educational program.

 (1) Program and Services

 The facility shall comply with those rules promulgated by the Department of Education whose authority is contained in, but not limited to, 20-A MRSA 258-A, 2901 et seq., 2907, 4501 et seq., 6801-A, 7003, 7204, and 7207-B. Rules relating to basic school approval are found in Chapter 125; rules relating to the provision of special education programs and services are found in Chapter 101; and rules relating to school approval for non-traditional limited purpose schools are found in Chapter 250 of the Department's rules.

 (In those instances when the requirements in the areas of health; hygiene; safety and/or immunization are more stringent in the core rules, the requirements of the core rules shall apply.)

 B. Substance- Abuse Treatment Rules - Residential Child Care Facility with a Substance Abuse Treatment Program.

 Those facilities directly providing a substance abuse treatment program shall comply with the Core Rules and the following Special Rules directed towards the provision a substance abuse treatment program, pursuant to the rulemaking and licensing authority of 22 MRSA §7801 and 22 MRSA §8001 et sea.

 (1) Organization

 a. Rights of Privacy and Confidentiality (Refer to 4.A.7., Core Rules).

 i. The facility shall notify the child's guardian of placement unless the child:

 (a) Is under the direct care of a licensed osteopath, physician, psychologist, substance, abuse counselor or social worker; and

 (b) Does not consent to notification of the guardian.

 ii. The facility shall adhere to the "Notice to Patients of Federal Confidentiality Requirements" as contained in 42 C.F.R. §2.22. Such notice shall be in writing at time of admission and be in a form approved by the Office of Alcohol and Drug Abuse Prevention.

 iii. A copy of the above statement shall be signed by the child and may be signed by the guardian if appropriate, and placed into the child's case record.

 (2) Program and Services

 Medications (Refer to 4.C.8.e., Core Rules). The facility shall inventory and certify on a weekly basis the balance on hand of all drugs identified by the Comprehensive Drug Abuse Prevention and Control Act of 1970, Chapter 13, 21 USCS §801 et seq., as amended.

 (3) Personnel

 a. Volunteers (Refer to 4.D.3, Core Rules). The facility's plan shall additionally specify how it utilizes volunteers within the substance abuse component of the program.

 b. Personnel Qualifications (Refer to 4.D.6., Core Rules). (Non-waiverable) . The facility shall employ at least one Licensed Substance Abuse Counselor as an employee of the substance abuse treatment program.

 c. Information Provided to Staff, Volunteers and Students (Refer to 4.D.9.b., Core Rules). The facility shall additionally make available to staff a current copy of the directory identifying alcohol and substance abuse services, public and private social service providers. (Copies shall be provided by OADAP, Department of Human Services, State House Station #11, Augusta, ME 04333).

 d. Staff Training (Refer to 4.D.9.c., Core Rules).

 The facility shall within the 12 months of employment train staff to recognize symptoms of the potential abuse of prescription drugs and the effects of such abuse. Documentation of such training shall be placed in the staff members personnel file.

 (4) Admission and Discharge

 a. Referral Process (Refer to 4.E.1., Core Rules).'

 Refusals. If a child is refused admission, the facility shall, in conjunction with the placement agency, facilitate referral of the child to alternative community resources for substance abuse.

 b. Service Planning (Refer to 4.E.6., Core Rules). The facility shall, within each child's service plan, provide consideration of substance abuse problems including:

 i. Short and long-term substance abuse treatment goals; and

 ii. A description of the type and frequency of substance abuse counseling/education to be provided which shall include at least 10 hours per week of formalized substance abuse treatment including one or more of the following: substance abuse education, group counseling and/or individual counseling.

 c. Periodic Review (Refer to 4.E.6.e., Core Rules). The facility shall review the substance abuse portion of each service plan at least monthly.

 d. Termination Procedures (Refer to 4.E.8., Core Rules).

 i. Discharge Criteria. The facility shall determine the successful completion of a child's program through at least the following criteria:

 (a) The child has demonstrated socially acceptable behavior in recreational and social pursuits; and

 (b) The child has attained the goals established within his/her service plan.

 ii. Aftercare. Within each child's service plan, the facility shall include a written description of aftercare services to be provided by the facility unless alternative arrangements have been made. Such services shall include:

 (a) Provision for period monitoring of the child's situation at least every 90 days;

 (b) Provision for re-entry into the facility or for facilitating placement into another treatment program if necessary; and

 (c) Provision for continuation of aftercare services for a minimum of one (1) year.

 iii. Refusal of Aftercare Services. If aftercare services are refused the reason(s) for refusal shall be documented in the child's record.

 (5) Environment and Safety

 Nutrition. (Refer to 4.F.5.c., Core Rules.) The facility shall additionally provide for the periodic review of meal menus for nutritional balance by a Registered Dietitian at not less than 90 day intervals.

 C. Mental Health Treatment Rules - Residential Child Care Facility with a Mental Health Treatment Program.

 Those facilities directly providing a mental health treatment program shall comply with the Core Rules and the following Special Rules directed towards the provision of a mental health treatment program, pursuant to rulemaking and licensing authority of 34B MRSA §1203.

 (1) Administrative Policies and Plans

 Child Management (Refer to 4.B.4., Core Rules). A facility directly providing a mental health treatment program shall ensure that any use of isolation exceeding 30 minutes shall be clinically authorized for continuance with reauthorization required every two (2) hours thereafter. Such authorization shall be documented in a manner which facilitates review.

 (2) Personnel

 a. Staff Training (Refer to 4.D.9.c., Core Rules). A facility directly providing a mental health treatment program shall additionally within its staff training plan provide in-service or external training which includes, but is not limited to the developmental, emotional and behavioral mental health issues appropriate to the mental and physical capabilities of children in care and their ages.

 b. Staff Supervision (Refer to 4.D.10., Core Rules). A facility directly providing a mental health treatment program shall provide clinical supervision to all staff providing mental health services. Such supervision shall:

 i. Occur no less than two (2) hours per month or in accordance with requirements of the specific professional licensure or certifications whichever is greater;

 ii. Include the discussion and review of children's clinical concerns; and

 iii. Include general case dynamic issues.

 (3) Admission and Discharge

 a. Clinical Consultant (Refer to 4.E.6.c., Core Rules). (Non-waiverable) A facility directly providing a mental health program shall have written evidence that the person acting as clinical consultant shall hold a current Maine license as a clinical social worker, a clinical psychologist or be a board certified psychiatrist. The clinical consultant shall:

 i. Provide clinical supervision in the development of a child's individual service plan and its periodic review; and

 ii. Supervise the facility's review of clinical services at least every six (6) months including a determination as to whether the treatment to each child has been adequate and effective in conjunction with relevant professional standards.

 (a) Such findings shall be addressed in the clinical supervision of staff providing mental health services; and

 (b) Such findings shall be addressed in the annual program evaluation of the facility. (Refer to 4.B.1.)

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