

22 VAC 42-11, Standards for Interdepartmental Regulation of Children's Residential Facilities (Proposed)

The Coordinating Committee for Interdepartmental Regulation of Children's Residential Facilities has the following comments regarding the economic impact statement. No comments were received from the Departments of Education or Juvenile Justice.

The Department of Planning and Budget refers to the Department of Social Services (DSS) throughout the report. In many instances the reference to DSS should state children's residential facility regulators or the Interdepartmental Regulation Program to indicate that regulatory staff at the agencies and facilities regulated by the four departments were contacted for information, not just DSS staff and facilities.

The number of staff at children's residential facilities used in the report, 9,341, is an approximation. The accuracy of this figure is unknown. P.4

All changes to the Standards for Interdepartmental Regulation of Children's Residential Facilities in the emergency regulation were based on legislative mandates. House Bill 2461 (2005) and Senate Bill 1304 (2005) required regulations that ensured the welfare and safety of residents. Several of the changes found in the emergency regulation were made as the result of this legislative requirement.

The proposed regulation requires certified life guards for swimming activities, not all aquatic activities. Most children's residential facilities are concentrated in urban areas located in close proximity to swimming pools offering certified lifeguard services. It is unnecessary for each facility to have, on staff, a trained certified lifeguard. Those choosing swimming options that do not offer certified lifeguard services could contract for a life guard for the specific activity or choose to train a staff member. Although the summary suggests that drowning is a low probability, two residents of children's residential facilities drowned while swimming in rivers and lakes where no lifeguard was present and no attempt was made to save the residents. The youth were allowed to swim in dangerous areas and in conditions beyond their swimming capabilities. The summary did not discuss the economic impact of these deaths to the facilities and others involved other than to state that a death or injury would be a high cost event. The report also did not address the liability that the state faces knowing that deaths from drowning have occurred and not addressing safeguards to prevent future deaths.P.7

In the section discussing qualifications, the three departments agreed on the qualification requirements because of the (1) guidelines suggested by Child Welfare League of America, (2) other states' qualification requirements, and (3)

22 VAC 42-11, Standards for Interdepartmental Regulation of Children's Residential Facilities (Proposed)

the qualification requirements of facilities that have a positive compliance licensing history. The departments' concern is not that lower qualifications have lead to an increase in applications. The concern is that the current lower qualifications have lead to lower quality of care. The summary does not take into account the number of facilities that already comply with the proposed qualification requirements. P.9

The requirement that staff shall complete a 32 hour training program before they can administer medication is a current requirement and is not new in the proposed regulation. The Board of Nursing established the requirement for 32 hours of training.

The discussion on training does not include that it is unknown how many facilities already comply with the new training requirements. P. 13

The current regulation requires a prescription for all over-the-counter medications. This is not a new requirement in the proposed regulation. The requirement has been reworded to provide clarification. P.13.