Form: TH-02
8/03

Virginia
Regulatory
Town Hall

townhall.state.va.us

Proposed Regulation
Agency Background Document

Agency name	Boards of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services
Virginia Administrative Code (VAC) citation	22 VAC 42 -11
Regulation title	Standards for Interdepartmental Regulation of Children's Residential Facilities
Action title	Revise standards to meet current industry practices
Document preparation date	Enter date this form is uploaded on the Town Hall

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

This action will repeal 22 VAC 42-10-10 et. seq. and adopt 22 VAC 42-11-10 et. seq. The Standards for Interdepartmental Regulation are used to regulate all children's residential facilities licensed or certified by the Departments of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services. The changes made to this regulation reflect the changes to the children's residential facility industry in recent years and the changes in federal requirements regarding record keeping and behavior management. The revision will also better ensure that services are appropriate for the children served.

Basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General

Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

---

§§ 22.1-321, 22.1-323, 22.1-323.2, 16.1-309.9, 66-10, 66-24, 37.1-182, 37.1-183.1, 37.1-189.1, 63.2-217, 63.2-1701, 63.2-1703, 63.2-1737, 63.2-203

The Boards of Education; Mental Health, Mental Retardation and Substance Abuse Services; Juvenile Justice; and Social Services are the promulgating entities. Regulation of children's residential facilities is mandatory.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the proposed action is to promulgate revised standards that better protect the health, safety and welfare of vulnerable children who are separated from their families and reside in children's residential facilities. The standards will assure that an acceptable level of care and education are provided to these children. Children placed in residential care typically need a higher level of service than can be provided in a foster home. It is important that staff who supervise these children have the appropriate knowledge and experience to make decisions regarding their care. The appropriate number of staff on duty is needed to give the children adequate time and attention to meet their needs. Staff also need the time to plan a structured program of care for the residents and to document planning and decision-making for each resident.

In the past, approximately 60 to 70 requests to operate a children's residential facility were received each year. Facilities were operated by organizations connected to groups with child welfare experience. Facilities were most often operated as nonprofits. Today the Office of Interdepartmental Regulation receives 40 to 50 inquiries to operate a children's residential facility each month. Inquirers are private individuals who may not have had any children's residential experience. Many want to open for profit facilities.

In order to ensure that residents receive the care and education they need, staff must have the training and experience, as well as the time, to make quality decisions about the residents they are serving. Should providers not provide adequate care and education to the residents, regulators must have the ability to change the duration of the license at the time the deficiencies are found.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

Substantive changes that are being proposed include changing the process to issue licenses to facilities regulated by DOE, DMHMRSAS, and DSS to be able to change the type of license at any time that systemic deficiencies are found; strengthening the qualifications of the staff who make administrative and supervision decisions at the facility and adding requirements to ensure that a qualified staff person is

available to make decisions. Requirements are added that ensure that educational services are provided to the child in a timely manner. Record keeping requirements are clarified and written to comply with federal guidelines. Requirements for medical treatment and medication are improved according to guidance received from medical professionals. Staff supervision ratios are changed to meet current practice and child advocacy guidelines. Many facilities are already maintaining these ratios. Behavior management requirements are clarified and written to meet federal guidelines. Recreation guidelines are written to ensure better planning and supervision during extended trips or activities. Emergency procedures requirements are strengthened to ensure better preparation for an emergency in today's environment. Special requirements are added for specialized independent living programs, mother/baby programs, and for camping programs and programs that take residents on adventure activities.

Issues

Please identify the issues associated with the proposed regulatory action, including:
1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;
2) the primary advantages and disadvantages to the agency or the Commonwealth; and
3) other pertinent matters of interest to the regulated community, government officials, and the public.

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

Primary advantages to the public:

- Better ensures that children placed in residential facilities receive the care and education that they need by requiring an adequate number of qualified staff to work with them
- Families and parents that place their children in residential care are offered more reassurance that their child is safe and that his needs are being met
- Better ensures that the tax payers money is used to pay for adequate services for children
- Neighbors of facilities will see that there are requirements in place to protect their interests

Primary Disadvantages to the public:

- Although many providers are already meeting the proposed standards, operators of facilities that are not meeting the revised standards will incur additional expenses

Primary Advantages to the Commonwealth:

- Better ensures that children placed in residential facilities receive the care and education that they need by requiring an adequate number of qualified staff to work with them
- Better ensures that the services the Commonwealth pays for are received
- Better ensures that the Commonwealth meets federal standards (child welfare review, IV-E)

Primary Disadvantages to the Commonwealth

- None

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	No new costs –the state will have to print the regulation and offer training to regulators and providers.
Projected cost of the regulation on localities	No cost to the localities unless the locality operates a children's residential facility that does not meet the new requirements.
Description of the individuals, businesses or other entities likely to be affected by the regulation	Families whose children are placed at residential facilities, businesses who operate a children's residential facility
Agency's best estimate of the number of such entities that will be affected	Currently there are approximately 265 children's residential facilities with an approximate capacity of 7000.
Projected cost of the regulation for affected individuals, businesses, or other entities	Cost will vary among the different facilities. Many of the currently regulated facilities already meet the requirements of the proposed regulation. Facilities that do not already meet the proposed changes will need to hire staff who meet the qualification requirements as staff leave and new staff are hired. Facilities that do not already meet the proposed staffing ratios will have to hire additional staff to meet staff ratios. Training costs may increase if the facility is not already training all direct care staff in CPR and First Aid and not already requiring an annual refresher course in medication management. Facilities not already conducting an external audit every three years will also be adding this expense.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

Leaving the current regulation unchanged and out of date with current industry standards and needs, as well as, out of compliance with federal regulation is an alternative. Changing the proposed regulation, as a result of public comment, is also an alternative.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
1 Provider	Supports the plan to revise the regulation	The revision will move forward.
1 Provider Group - Virginia	Opposed the revision of the regulation. Submitted a "White	The revision will move forward.

Association of Children's Homes (VACH)	Paper" which included the following: • Two issues are driving the revision – the increase in applications to operate children's residential facilities and the effort to fund children in residential care with Medicaid (revision mirrors Medicaid standards) • Observations – would support many of the proposed changes; oppose changing the word child to client which represents a shift to medical model and more restrictive placements; one size does not fit all - recommend modules; 1:6 staff to child ratio does not account for type of child served; recommend a cost analysis- facilities do fundraising and money would be lost from those who believe in family style atmosphere, predict cost to VACH agencies to be $15 million • Recommend new facilities have different standards; ratio is too restrictive and does not look at type of child served; qualifications for staff mirror Medicaid, standards shouldn't set personnel qualifications, recommended degrees too limited, Masters degree is cumbersome and limited, limits pool of employees, incorporates medical model mind set • Proposed standard to plan for all day trips and overnight trips is egregious and overbearing, supports medical model, many facilities are family style • Standard that requires prescription of over-the-counter medications is unnecessary and seems to comply with Medicaid standards, standard to	The "White Paper," which offers some important suggestions, also contains erroneous information and makes assumptions that are not accurate. The issues driving the proposed revision to the regulation include: • Child welfare practices are always evolving/ the regulation needed to be updated to reflect current practices. (It is important that this regulation reflect current child welfare practices especially during Federal audits such as the Child and Family Review and IV-E audits.) • All regulations are required to be reviewed every 4 years. A periodic review was due for the Interdepartmental Standards • The children's residential facility industry has changed in Virginia which has lead to an increase in applications to operate facilities as noted in the "White Paper." Previously, children's residential facilities have been operated by child welfare organizations, hospitals or religious groups, the majority as nonprofit organizations. The recent trend is for private citizens to apply to operate facilities on a for profit basis. The proposed revision attempts to ensure that all facilities, regardless of when they opened, operate with qualified staff making appropriate programmatic decisions based on child welfare experience and education. The revision is also written to ensure that there is enough staff at the facility to meet the needs of the children served. • The regulation needed to be in compliance with Federal statutes and procedures (most notably HIPAA) The *Standards for Interdepartmental Regulation of Children's Residential Facilities* are not based on funding requirements. The Office of Interdepartmental Regulation received no directive to "turn facilities into treatment facilities." Proposed revisions are based on current child welfare practices and the goal to offer children placed in all different types of residential facilities quality care and service. In most cases, to be a treatment facility, the facility would have to be licensed by

	contact doctor if child refuses medicine unless refusal is addressed in standing orders is unnecessary and overburdening Conclusion – support efforts to improve services but proposed changes will prevent any facility from using the home-like approach, children at VACH facilities would be forced into more restrictive facilities; concerned about one size fits all and the encroachment of the medical model on programs with successful service to children using the social service model; need to ensure that new programs provide quality care; costs need to be considered	DMHMRSAS. Treatment facilities must serve a mental health population and provide treatment by qualified staff, at the facility. Treatment facilities must comply with the *Rules and Regulations to Assure the Rights of Individuals Receiving Services From Providers of Mental Health, Mental Retardation and Substance Abuse Services* and *Regulations for Providers of Mental Health, Mental Retardation and Substance Abuse Residential Services for Children*, the DMHMRSAS module. Staff ratios for treatment facilities are often stricter than the proposed general 1:6 staffing ratio. For treatment group homes that want to receive Medicaid, staffing ratios are 1 staff to every 4 children. (Many of the facilities that belong to VACH are ineligible to apply for Medicaid for group homes as their capacities exceed Medicaid limits.) There are no proposed standards in this regulation to require facilities to be licensed by DMHMRSAS, to serve a mental health population, to offer treatment at the facility or to become Medicaid eligible. The word client is <u>not</u> used in the proposed revision to the regulation. The word resident is used most often to refer to a child placed in a facility. The term resident is used in the current regulation. The Interdepartmental Regulation Program was created to insure that all children's residential facilities are regulated on a consistent basis using one set of standards. This was to eliminate the problems that were occurring before the Interdepartmental Regulation Program began - repetitious licensing investigations from different licensing agencies and facilities being told different requirements by different agencies. The *Standards for Interdepartmental Regulation of Children's Residential Facilities* are written in such a way as to be suitable for all types of facilities, serving many different populations. The standards are written with flexibility to accommodate many different program models. For example, often the regulation asks for policies and procedures to be written for a certain issue. Policies and procedures for a treatment facility serving emotionally disturbed children would be very different from policies and procedures written for a facility whose primary focus is to teach independent living skills to children transitioning out of foster care. DMHMRSAS, DOE, and DJJ have module

		standards to address issues specific to facilities regulated by these agencies. The proposed standards would not prevent a facility from operating a "family style" program. House parent models are not prohibited. The standard requiring a doctor's prescription for over-the –counter drugs is necessary to protect children from drug reactions and is supported by the Virginia Department of Health. All standards regarding health care are reviewed and approved and often proposed by the Virginia Department of Health medical experts. (This is a current standard and not a new proposal.) While working on the proposed revisions many other states' standards were reviewed, as well as, the recommendations of the Child Welfare League of America for residential facilities. Issues regarding staff ratios and qualifications for staff were discussed with the Interdepartmental Regulation Advisory Committee where provider groups, including VACH, are represented, to give feedback to the revision committee. Information was also received from other providers, regulators and placing agencies. VACH is represented on the Interdepartmental Regulation Advisory Committee. They had access to all discussions regarding the possibility of a revision, as well as, access to all proposed working papers. A VACH member also served on the revision committee. No issues, as presented in the "White Paper," were mentioned during these meetings. Various members of VACH have met with Charlene Vincent, the Coordinator of the Office of Interdepartmental Regulation and Leslie Knachel, the DSS Child Welfare Licensing Administrator for VACH programs. Maurice Jones, Commissioner of DSS and chair of the Interdepartmental Regulation Committee, has also met with various members of VACH and has visited one facility. On June 9, 2004, Commissioner Jones, Ms. Vincent, Ms. Knachel, and representatives from the other participating departments met with representatives of VACH. On July 9, 2004, Ms. Vincent and Ms. Knachel met with the VACH president and another VACH representative to go over the entire regulation to clear up any miscommunication. At every meeting VACH

		was encouraged to submit public comment during the proposed public comment period. They were encouraged to submit statistics and facts to support their public comment and to offer their solutions to help the revision committee and others who would be reviewing the public comment, make good decisions. VACH has approximately 17 member facilities. Three facilities are not regulated under the *Standards for Interdepartmental Regulation of Children's Residential Facilities*. Currently, there are approximately 280 facilities licensed under the Interdepartmental Program. In fairness to all facilities affected by the Interdepartmental Regulation Program and to other interested parties including local governments, placing agencies, and neighbors of residential facilities, the Coordinating Committee determined that it would be best to receive all comments regarding the proposed revision during the proposed public comment period when all interested parities have equal access to the proposed draft. All public comment will be reviewed and the proposed regulation will be changed as appropriate.
50 individuals associated with VACH	Comments from individuals associated with VACH are all variations of the themes presented in the "White Paper." Thirteen copies of the same letter from individuals at one facility. Want the revision to focus on new facilities. Doesn't think a more restrictive staff to child ratio considers the needs of children; thinks staff requirements mirror Medicaid requirements; thinks standards regarding recreational trips are overbearing; doesn't believe it is necessary to have a prescription for over-the-counter medication and doesn't want to report to a doctor refusals of medication; believes changes will prevent programs from having a home-like approach; concerned about cost of changes; believes changes would force a medical model on all programs and force children into programs with a medical model.	The revision will move forward. VACH members have been encouraged to submit specific public comment with proposed solutions to their concerns during the proposed public comment period. The purpose of the Interdepartmental Standards is to regulate all children's residential facilities, not just new facilities. Writing standards for each category of facility or for facilities open for different time periods would cause the regulation to be confusing and cumbersome. The staff ratio of 1 staff to 6 residents has been proposed to ensure that residents receive good care. This ratio was selected as many facilities who have a history of compliance with the Interdepartmental Standards recommended this ratio, the Child Welfare League of America Standards of Excellence recommend this ratio for group homes, and many facilities already meet this ratio. The proposed recreation standards are necessary to protect children while on recreation trips. Lack of proper supervision during recreation trips has been the focus of several complaint investigations. Two youths from different facilities drowned this past May during recreation trips. All medical standards will be reviewed by the Virginia Department of

		Health. Proposed standards will not prevent facilities from having a home-like approach and there is no intent to turn all programs into "medical model" programs. Costs to facilities to meet regulatory requirements and costs to the state to place children in residential care will be considered throughout the promulgation process. The state must ensure that the children placed in residential care are receiving appropriate services and care that warrant the fees charged by facilities.
	Thirteen copies of the same letter with different signatures (faxed twice) requested a public hearing to discuss revisions found in the working papers; believed that facilities serving children are already successful; believes that Virginia already has the most rigorous regulations of any neighboring state; costs will rise; and believes that agencies who care for children do fundraising and save the state money.	A public hearing will be held during the public comment period. Costs will be considered throughout the promulgation process. The Office of Interdepartmental Regulation is not aware of any study concluding that Virginia has the most rigorous standards for children's residential facilities of any neighboring state. The Office of Interdepartmental Regulation is aware that in the past, Washington D.C. and Maryland have requested consultation from Virginia to improve their standards.
	A letter similar to the letters above but also stating opposition to forcing facilities into "treatment modalities."	There is no intention to make all facilities become treatment facilities.
	Six letters from individuals from another facility with similar concerns as those already summarized - revisions concerning staff qualifications will increase costs, Virginia's regulations are more stringent than neighboring states, revisions will force providers to become treatment facilities, and new revisions call the child a client.	Costs will be considered throughout the promulgation process. There is no intent to change all facilities into treatment facilities. The child will not be called a client in the regulation.
	Nine letters from individuals connected with another provider expressed similar concerns about not being able to provide a home-like environment and having to provide a treatment facility; believing their program works well without making proposed changes; believing the purpose of the revision is for Medicaid billing, reporting Medication refusals is not important; checking on children in confinement every 15 minutes takes time away from other children; requiring	Facilities will be able to offer a home-like environment and facilities will not be forced into being treatment facilities. The purpose for the revision is not connected to Medicaid. Reporting medication refusals and checking on children in confinement protects children from potential harm. Staff ratios and staff qualifications are important factors in providing good care to residents. It is important to have enough staff to provide supervision and to have staff that is qualified to make major life decisions for the residents. Careful planning for recreation trips is an important safeguard for residents.

	stricter ratios and more qualified staff will close non-profit facilities; planning for recreation trips takes time away from children	
	One letter from a director of a facility wants a cost impact study to be conducted regarding proposed changes. Welcomes many proposed changes; suggests that new facilities have separate standards; opposes the stricter staff ratio of 1:6 but would not oppose a staff ratio of 1:8 as he recognizes that the needs of children are more and more difficult; opposes the staff qualification standards and prefers more open standards; opposes standards requiring planning for recreational trips; opposes having to notify the doctor if a child refuses medication; opposes the standard that requires prescriptions for over-the-counter medication	Costs are considered throughout the promulgation process. Promulgating separate standards for new facilities is not practical. Having separate standards for all types of facilities in different stages of development would cause the regulation to be cumbersome. Staff ratios and staff qualifications are important factors in providing good care to residents. It is important to have enough staff to provide supervision and to have staff that is qualified to make major life decisions for the residents. Careful planning for recreation trips is an important safeguard for residents. All medical standards are reviewed by the Virginia Department of Health.
	A board member of a facility supports the VACH White paper.	
	Another provider asked questions regarding the proposed standards in the working papers. This provider is opposed to requiring a Masters degree; to having 1:6 ratio while children are asleep; planning for recreation trips. The provider is also concerned about cost.	There is no proposed requirement to have a 1 staff to 6 resident ratio while children are sleeping. Planning for recreational trips provides protections to residents. Costs are considered throughout the promulgation process.
	Two letters from staff of another facility state that the revisions found in the working papers would rule this facility out as a resource for children. They believe new facilities should identify their populations from the onset. They believe the proposed revisions have the intent to make facilities become Medicaid providers and this facility does not provide treatment.	New facilities must identify the population to be served in the program description that is submitted to the Office of Interdepartmental Regulation before an application is sent to the proposed facility. There is no intent to make all facilities become Medicaid providers. Children placed in residential care have all types of needs. Not all children qualify for Medicaid but still need residential placement.
	Another provider states that the revision is an attempt to get all facilities to become Medicaid providers. They can not offer a homelike environment if they have to become treatment facilities. The proposed stricter staff ratios will	There is no intent to make all facilities Medicaid providers. Many facilities would not qualify for Medicaid due to the capacity of the facility. Many children do not qualify to receive Medicaid but still need residential placement. Staff ratios and staff qualifications are important factors in providing good care to

	increase costs. The provider opposes the change to check children in confinement every 15 minutes from every 30 minutes as it would take too much staff time.	residents. It is important to have enough staff to provide supervision and to have staff that is qualified to make major life decisions for the residents. Checking children in confinement every 15 minutes provides an important safeguard to children who are in confinement.
	Another individual is against the proposed changes as they do little to add to services but increase costs. He opposes the stricter staff to child ratio and opposes calling the residents clients.	Costs are considered throughout the promulgation process. Staff ratios and staff qualifications are important factors in providing good care to residents. It is important to have enough staff to provide supervision and to have staff that are qualified to make major life decisions for the residents. Residents are never called clients in the regulation.
	In four of the letters summarized above the writer indicated opposition to any revision of the regulation.	The regulation must be updated to reflect current child welfare policies and practices and to conform with statutory changes.
	A director of another facility that is not regulated under the *Standards for Interdepartmental Regulation of Children's Residential Facilities* and who would not be affected by the change in this regulation wrote that the change in this regulation would force this facility to become a treatment a facility and would increase the facility's costs. He also commented that Virginia has the most vigorous regulations of any neighboring state.	There is no intent to change all facilities into treatment facilities. Costs are considered throughout the promulgation process.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

The changes to the regulation will better assure families that must place their children in a residential facility that safeguards exist to protect their child and that adequate care and education are provided.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
10	10	Definitions of terms used in the regulation.	Deleted the following definitions as they are no longer found in the regulation or are no longer necessary: adaptive behavior, boot camp, chemical restraint, client, confinement, intrusive aversive therapy, public funding, responsible adult.
10	10	Definition of residential facility for children	Changed to Children's Residential Facility to be consistent. Also corrected a reference to DMHMRSAS regulation.
			Throughout the regulation changed the word facility to provider.
10	10	Definition of compliance plan	Changed to "Corrective Action Plan" for consistency.
10	10	Confined in detention with a suspended commitment to the Department of Juvenile Justice	Changed to "confined in post-dispositional detention" to coincide with Virginia Code.
10	10	Definitions of terms used in the regulation.	Added DJJ as the other agency abbreviations were listed.
10	10	Definition of residential facility for children included the definition of group home	Separated the definition of group home from the definition of a residential facility for children to decrease the confusion on where to locate the definition. Added children's residential facility to clarify that a group home is a children's residential facility.
10	10	Definitions used in the regulation	Added a definition of health record to clarify for HIPAA purposes.
10	10	Independent living	Added competency-based to the definition of independent living.
10	10	Individualized service plan	Added "measurable" and "goals and objectives" to the definition of individualized service plan.
10	10	Mechanical restraint	Revised the definition to be consistent with the "Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services" - 12 VAC 35 -115 et seq. (Human Rights

			Regulation)
10	10	Medication error	Clarified the definition by adding that when a resident refuses medication this should not be considered a med error.
10	10	Definitions used in the regulation	Added a definition of personal health information.
10	10	Definitions used in the regulation	Added a definition of pharmacological restraint to be consistent with Human Rights Regulation.
10	10	Physical restraint	Revised the definition to be consistent with Human Rights Regulation.
10	10	Program	Deleted the definition of program and replaced with "structured program of care."
10	10	Licensee	The term provider and licensee are interchangeable.
10	10	Definitions used in the regulation	Added the definition of regulatory authority as it is now used in the regulation.
10	10	resident	Revised the definition of resident as preplacement visits are no longer required.
10	10	Rest day	The definition was simplified.
10	10	Routine admission	The words "completion of a preplacement visit" were deleted as the preplacement visit requirement is being deleted
10	10	Corrective action regarding systemic deficiencies	Deleted all reference to corrective action regarding systemic deficiencies as there is no time to take corrective action before the license is issued.
20	20	Applications	• For clarification a complete listing of documents that are required for an initial application was added to the section. • Added a requirement that new applications which are not complete in 6 months will be closed to clarify procedures. • Added a requirement that a provider must be substantially complying with applicable regulations before new facilities can be licensed to clarify procedures.
35	50	General requirements	• Deleted the requirement that corporations not organized and empowered solely to operate residential facilities for children shall provide for such operations in their charters as this is no longer necessary. • Deleted "in addition to the sanctions specified in this chapter" from former standard 35.G as no additional sanctions are listed. • For clarification added a requirement that the provider be in compliance with federal, state, or local laws and regulations.

			• Added a requirement that providers must keep a current policy and procedures manual assessable to staff. • Added a requirement that the provider shall comply with their own policies and procedures.
	60	Written corrective action plans	For clarity added a section regarding corrective action plans stating what is required and timeframes for the return of the corrective action plan.
40	70	Licenses and certificates	• Changed the process to issue licenses for DOE, DMHMRSAS, and DSS- a license can be changed to an annual or a provisional at anytime during the licensure period if the facility receives 1 or more systemic deficiencies. • All references to corrective action regarding systemic deficiencies were deleted as most systemic deficiencies are cited at the time the license is issued. There is no time to take corrective action.
50		Stated no fee would be charged.	At the request of the Coordinating Committee, deleted the standard that stated no application fee can be charged.
60	80	Modification	Clarified the standard by adding gender to the reasons a license could be modified; clarified that conditional licenses can not be modified; simplified the language of the standard; clarified where the request for modification should be sent; and removed the time limit for a response from the regulatory authority.
90	110	Variance	The elements of a variance request were added back into the standard as requested by regulators.
110	140	Responsibilities of the provider	• The requirement to designate a qualified staff person to assume responsibility of the chief administrative officer in his absence was replaced with a requirement to develop and implement a decision making plan including an organizational chart to clarify who can make decisions. • The requirement of the provider to review the program annually was revised to require that the provider evaluate the impact of services offered based on performance measures established by the provider and approved by the regulatory agency to ensure that

			providers are evaluating their services. • The provider is required to make changes as identified by the annual evaluation.
120	150	Fiscal accountability	A requirement to conduct an internal audit annually and an external audit every three years for better accountability to insure fiscal accountability was added.
130	160	Insurance	The requirement to maintain liability insurance on vehicles was revised to require documentation showing that all vehicles used to transport residents are insured, including vehicles owned by staff, as many providers ask that staff use their own vehicles.
150	180	Weapons	Added the possession of licensed law enforcement officers, as facilities sometimes have officers come to their facilities.
160	190	Relationship to the regulatory authority	This standard was revised to correct a contradiction with the standard regarding modification.
180	210	Health information	• Added that health information should be maintained in a confidential manner. • Each new staff person should obtain a risk assessment for TB as evidenced by a completed current risk assessment screening form published by the VA Department of Health. The risk assessment must be completed at the time of hire and no earlier than 30 days before the date of hire. This is the Department of Health's recommendation. • Each staff person shall have an annual risk assessment as evidenced by a completed current risk assessment screening form published by the VA Department of Health.
210	240	Job description	Added a requirement that minimum education and experience be added to the job description to insure that staff have the proper qualifications.
220	250	Written personnel policies and procedures	• Clarified that providers have approved policies and procedures, as some providers cannot approve

			their own policies and procedures because they are part of a bigger organization e.g. local government. • Added a requirement that individuals hired for a position have the education and experience for the position as described in the job description.
230	260	Personnel records	• Added that providers keep personnel records on student interns. • Added a requirement that documentation of educational degrees and professional certification be kept in the record. • Added that documentation of medication, first aid, CPR and all other training be kept in the record. • Added that student intern records must be kept for 3 years. • Added that health records can be maintained separately as required by federal regulation.
240	270	Staff development	• Added that employees transferring from other facilities operated by the provider be given orientation and training regarding the new facility. • Changed the requirement for new employees, volunteers and students to have orientation and training regarding the facility within 14 days instead of 30 days. • Added that part of this orientation includes information about the provider's decision making plan and the Interdepartmental Standards, including the prohibited actions outlined in the standards. • Clarified that the staff training plan be developed within 30 days of hire for each employee and that the plan should be reviewed and updated annually.
260	290	Chief administrative officer	• Added duties of the chief administrative officer, as these duties are critical to the successful operation of the facility and involve decisions that need to be made by qualified staff. • Increased the qualification requirements of the CAO to include a Masters degree in social work, psychology, or counseling, and 3

			years experience of full time work experience in a children's residential facility and 2 years experience in an administrative or supervisory capacity for a total of 5 years experience; <u>or</u> a baccalaureate degree in social work, psychology, and 5 years full time work experience with children at least 3 of which were in a children's residential facility and an additional 2 years of administrative or supervisory experience for a total of 7 years experience; <u>or</u> a degree in Education may be accepted for a chief administrative officer of a program whose lead regulatory agency is the Department of Education; <u>or</u> a degree and experience as approved by the lead regulatory authority.
270	300	Program director	• Added the duties of overseeing assessments, service planning, staff scheduling and supervision to clarify who should be performing these critical functions. • Increased the requirements to a masters degree in social work, psychology, or counseling and 3 years of full time paid work experience as an employee working with children one of which needs to be in a children's residential program; <u>or</u> a baccalaureate degree in social work or psychology and 5 years full time paid experience as an employee working with children, 2 of which must be in a children's residential facility; <u>or</u> a degree and experience as approved by the lead regulatory authority.
NA	310	Case manager	• Added a requirement for a case manager. • Case managers shall have the responsibility for: o Coordination of all services offered to each resident o Provision of social services as required in 720.A • Case managers shall have: A masters degree in social work, psychology, or counseling; <u>or</u> baccalaureate degree in social work or psychology with documented field

			work experience and must be supervised by the program director or other staff employed by the provider with the same qualifications as required by 300.D; or a degree and experience as approved by the lead regulatory authority. • Added the requirement for group homes with a capacity of 12 or less, to have one staff person meeting the qualifications of case manager assigned to work full time at the group home, as there have been many concerns regarding small group homes having qualified staff at the facility. Added to ensure that someone qualified is making the decisions at the facility on a day to day basis.
280	320	Child care supervisor	• Changed child care supervisor to direct care supervisor • Separated the direct care supervisor from the rest of the direct care staff standard so it would be more visible. • Added duties for the direct care supervisor. • Designated that social work or psychology college degrees would be acceptable for a direct care supervisor and replaced the qualification option of a high school education with the option of the regulator approving the proposed supervisor's qualifications.
280	330	Direct care staff	• Changed child care staff to direct care staff • Added the requirement that the provider could not be dependent on temporary contract workers (added definition) to provide direct care.
300	350	Medical staff	• Changed the requirement that the provider have one staff member for every 16 residents trained in First Aid and CPR to having all staff enrolled in First Aid and CPR within 30 days of the hire date unless the facility has 24 hour, on-site nursing staff. This requirement was added, as there are too many situations where untrained staff are working alone with children. Many facilities indicated they already train all staff.

			• Changed the requirement of the 1:16 ratio of trained staff to residents to say there will be a trained staff whenever staff are supervising residents.
310	360	Volunteers and student interns	• Deleted the requirements that volunteers comply with confidentiality policies as it is covered in another section of the standards. • Deleted the requirement that volunteers be informed of liability protection as this is good practice but not a regulatory issue.
330	380	Buildings, inspections and building plans	• Deleted the requirement that the certificate of occupancy state the proposed use of the building as many localities will not do this. • A change was made to allow swimming pool companies to inspect swimming pools at the suggestion of the Department of Health.
335	390	Heating systems, ventilation and cooling systems	• The lowest temperature of a living area was increased from 65 to 68 degrees. The highest temperature of a living area was decreased from 85 to 80 degrees.
340	400	Lighting	Combined 2 standards to require lighting to be sufficient for safety and for activities performed.
350	410	Plumbing	A requirement for mixing faucets was deleted as the use of mixing faucets is the accepted practice of builders at this time. The Department of Housing and Community Development advised that this requirement was no longer needed.
360	420	Toilet facilities	All facilities licensed after the effective date of these standards will be required to have 1 toilet, 1 hand basin, and 1 shower or tub for every 4 residents.
370	430	Personal necessities	• Deleted from the standard the listing of personal items as it was thought this information should be included in the interpretive material. • Added a requirement that towels and wash clothes be in good repair. • Changed the requirement to use warm, soapy water to clean toilets and adapter seats to use of appropriate cleaning materials. • Added a requirement that privacy,

			dignity, and confidentiality be maintained during toileting and diapering of older residents.
380	440	Sleeping areas	Combined standards by adding the word clean to the standard requiring separate bedding.
390	460	Resident's privacy	Prohibits the use of video and audio monitoring of children except in common areas or hallways or with the permission of the regulatory authority and, where appropriate, the Office of Human Rights. Added secure custody to the exception after receiving Advisory Committee comment.
400	470	Living rooms and indoor recreation space	• Clarified that secure custody does not have to have a living room area. • Clarified that all facilities need to have indoor recreation space and materials. • Clarified that facilities with 13 or more residents need to have indoor recreation space separate from the living room.
450	520	Staff quarters	• Deleted the requirement that live-in staff have a separate living room. • Deleted the requirement that a bed be provided for overnight staff.
490	560	Housekeeping and maintenance	Deleted the requirement for linens to be clean and in good repair as this is required in a previous standard.
500	570	Farm and domestic animals	• Combined the standards for quartering animals a reasonable distance from sleeping, eating, food preparation areas and from water supplies. • Deleted the requirement for removing manure as this is required in another standard.
510		Campsite	• Deleted this section as the Department of Health confirmed that their regulation for summer camps should be applied to wilderness campsite programs. • All standards that duplicated the DOH's regulation were deleted. • Moved remaining standards to the campsite section to keep all campsite standards in one place.
530	590	Admission procedures	• Added a requirement to state how educational services will be provided

			to ensure that residents receive educational services in a timely manner. • Added a requirement that exclusion criteria must be provided. • Deleted the requirement that admission criteria be available to prospective residents, guardians, and placing agencies.
540	600	Maintenance of resident's records	• Added that a separate health record may be kept for residents.(HIPAA) • Changed requirement to consolidate a resident's record to allowing the case and health record to be kept separate.
550	610	Interstate compact on the placement of children	• Added a requirement that documentation that the provider has sent quarterly progress reports to the administrator of the Virginia Interstate Compact on the Placement of Children shall be kept in the resident's record. • Added a requirement that within 5 days documentation of the notification to Interstate that a resident has been transferred to another facility sponsored by the same agency must be in the record. • Clarified that the administrator of the Virginia Interstate Compact be notified in writing within 10 days that the resident has been discharged. • Added that the provider shall not discharge or send out-of-state youth in the custody of out-of-state social services agencies and courts to reside with a parent, relative, or other individual who lives in Virginia without the approval of the administrator of the Virginia Interstate Compact on the Placement of Children. All additions are current requirements of the Interstate Compact.
570	630	Emergency and self-admission	• Added that justification of why the resident is to be admitted on an emergency basis be included in the resident's record. • Added that written assessment information gathered for the emergency admission clearly document that the individual meets

			the facility's criteria for admission.
580	640	Application for admission	• Changed the admissions requirement to require that all admissions be based on an application, except for court ordered placements and transfers between facilities operated by the same sponsor. • Added a requirement that facilities accepting emergency or diagnostic admissions develop an admission application to be completed at the time of placement or prior to placement. • Added immunization needs to the application.
590	NA	Preplacement activities documentation	The requirements regarding preplacement visits were deleted as preplacement visits were often conducted at the time of placement.
600	650	Written placement agreement	• Clarified how long the facility would hold a bed for a resident that is absent for authorized or unauthorized absences. • Clarified that the placement agreement be signed by a facility representative and corrected the Code cite. • Added a requirement that the educational plan for the resident and the responsibilities of all parties regarding the educational plan be included in the placement agreement. This addition is added to insure that educational planning begins with the application and to insure that the resident begins school in a timely manner.
610	660	Face sheet	• Clarified that information on the face sheet is to be updated when changes occur. • Added a requirement that placement changes among facilities with the same sponsor be documented on the face sheet for easier location of the child.
620	670	Initial objectives and strategies	Clarified that the initial strategies and objectives should be measurable.
630	680	Service plan	• Combined the service plan and quarterly report sections.

			• Added that the service plan should be written in measurable terms. • Clarified that the discharge plan was a projected plan with an estimated length of stay. • Timeframes for reviewing the service plan were clarified. • Added a requirement that the provider develop policies and procedures for a system to document progress of the resident towards obtaining goals and objectives of the service plan which shall include the format; the frequency; and the person responsible. • Timeframes for writing the quarterly progress report were clarified. • Clarified that each service plan and revision and each quarterly progress report be signed and dated. • The requirement that requires participation in the service plan reviews and in the development of the quarterly progress report was clarified to require documentation in the resident's record of the participation. • Distribution of the service plan and quarterly progress reports is required if allowed by federal regulations.
640	690	Resident transfer between residential facilities located in VA and operated by the same sponsor	• The requirement to document a written admission decision was deleted. • A requirement was added that the justification of the transfer be documented in the record. • A requirement was added that the sending agency document on the face sheet the name of the facility the resident was transferred to.
650	700	Discharge	The requirement to make available or to provide information to the legal guardian or legally authorized representative was revised to require that the information be provided if appropriate.
670	720	Social services	• "Social services" was changed to "case management services" for clarity. • The qualifications section to provide case management services was deleted here and added to a new section called case manager in the

			personnel section.
690	740	Structured program of care	The activity log was renamed communication log.
700	750	Health care procedures	• A new requirement was added for a policy and procedure to assure that information required in 750.B (emergency information) was promptly available. • Clarifications were made to the emergency information section to require information about all allergies including medication allergies, information about substance abuse and use, and past and present medical problems.
710	760	Medical examination and treatment	• Clarified that record means health record. • Added a requirement that at the time of placement, except for secure detention and emergency placements, each resident have a risk assessment as evidenced by the completion of a current tuberculosis risk assessment screening form published by the VA Department of Health (DOH). The risk assessment can be no older than 30 days. Secure detention and emergency placements have 5 days to complete the risk assessment. (Recommended by DOH) • A risk assessment must be completed annually on each resident. (Recommended by DOH) • It was clarified that the annual exam could be performed by a physician or under the direction of a physician. • Clarified that the physical exam report includes immunizations administered at the time of the exam. • The policies and procedures regarding universal precautions must now be approved by a medical professional. • Added a requirement that all staff be trained within 30 days on the provider's policies and procedures regarding universal precautions and annually thereafter.
720	770	Medication	To reduce medication errors: • A clarification was added that staff

			be trained in medication management before they can administer medication. • A new requirement was added that requires all staff that have been trained in medication management and continue to administer medication to have annual refresher training. • A clarification was made that over-the-counter drugs also be prescribed by a person authorized by law to prescribe medication. • “Licensed physician” was changed to “person authorized by law to prescribe medication” when talking about prescribing medication. • Components of the daily medication administration log were specified. • A requirement was added to require documentation of medication refusals and that the prescribing professional be consulted unless the issue was covered in standing orders. • A requirement was added that the provider develop policies and procedures for documenting medication errors, reviewing medication errors and reactions and making any necessary improvements, the disposal of medication, the storage of controlled substances, and the distribution of medication off campus. The policy must be approved by a health care professional. The provider shall keep documentation of this approval. • “Other emergency numbers” was added to the requirement to post the poison control number by or on the phone. • The requirement to have an unexpired bottle of Syrup of Ipecac was deleted at the advice of health professionals.
740	790	Staff supervision of children	• “Children” was changed to “resident.” • A requirement to add specific components to the provider’s written policies and procedures which address staff supervision of residents including contingency plans for resident illnesses, emergencies, off campus activities, and resident

			preferences was added. These policies and procedures shall be based on the population served, but at no time shall the ratio of staff to residents be less than 1 staff to 6 residents during the hours residents are awake or less that 1 staff to 12 residents while residents are asleep. This requirement also changes the ratio of staff to residents from 1:10 to 1:6 while residents are awake and from 1:16 to 1:12 while residents are asleep, except for independent living programs and mother/baby programs. • The requirements for specific staff to resident ratios in special programs were deleted as the requirement to write a supervision plan was added. • DJJ will establish their own ratios but shall not allow ratios less restrictive than required in the current standards. • The requirement that supervision policies or a summary of the policies be provided, upon request, to the placing agency or legal guardian prior to placement was deleted as it was difficult to regulate.
750	800	Emergency telephone numbers	Requirements that providers must have an emergency number where a staff person can be reached 24 hours a day were clarified. When a resident is off campus they are to be given an emergency number. Any adults who are responsible for the resident while he is off campus is also to be given the emergency number.
770	820	Searches	A requirement to conduct pat downs in accordance with policies and procedures was deleted as all policies and procedures should be followed.
780	830	Management of resident behavior	• Components of the policies and procedures were specified to include the definition and list of techniques that are used and are available for use in the order of their relative degree of restrictiveness; the staff members who may authorize the use of each technique; and the processes for implementing such policies and procedures. • The exception for giving copies of

			the policies regarding behavior management and all revisions to those residents with diagnosed mental disabilities resulting in the loss of the cognitive ability to understand the information was deleted. • "Legal guardian" was changed to "legally authorized representative" and "referral agency" was changed to "placing agency."
790	840	Confinement	• "Confinement" was changed to "timeout" in accordance with the Human Rights Regulation. • A resident placed in timeout shall be checked every 15 minutes instead of every 30 minutes.
800	850	Prohibitions	• A prohibition to limit the time a resident has with the regulator was added. • The name of the Department for Rights of Virginians with Disabilities was changed to the Virginia Office of Protection and Advocacy.
810	860	Chemical or mechanical restraints	"Chemical restraint" was changed to "pharmacological restraint" to comply with the Human Rights Regulation.
820	870	Physical restraint	• The requirement to develop and implement policies and procedures was clarified to include the identification of the staff person who will write the report and timeframe; the staff person who will review the report and timeframe; and methods to be followed should physical restraint, less intrusive interventions, or measures permitted by other applicable state regulations prove unsuccessful in calming and moderating the resident's behavior. • A requirement was added that all incidents of physical restraint shall be reviewed and evaluated to plan for continued staff development for performance improvement. • The word intrusive was changed to less restrictive. • In the documentation of all incidents of physical restraint the components, circumstances and reasons for restraint, were replaced with

			justification for the restraint. The signature of the person completing the report and the date and a reviewer's signature and date was added to the documentation requirements. • Training in the provider's behavior management policies was added to the training requirements. • A requirement that providers ensure that restraint may only be implemented, monitored, and discontinued by staff who have been trained in the proper and safe use of restraint, including hands-on techniques if applicable, by an individual experienced in training staff in the management of behavior for the population served replaced the requirement that physical restraint be applied only by staff who have been trained in the facility's physical restraint procedures and techniques.
840	NA	Timeout	This section was deleted as the previous section on confinement was changed to timeout to be in agreement with the Human Rights Regulation.
850	890	Education	• A requirement was added that residents be enrolled in an educational program within 5 business days of admission and documentation of the enrollment be kept in the record. • A requirement was added that documentation regarding contact with the resident's home school be kept in the record.
870	910	Recreation	• To ensure that extended trips are properly planned and that appropriate decisions are made, requirements were added that for all extended recreational trips away from the facility, the provider will document trip planning to include: o A supervision plan for the entire duration of the activity including awake and sleeping hours; o Plan for safekeeping and distribution of medication; o Overall emergency, safety, and

			communication plan for the activity including emergency numbers of facility administration; o Staff training and experience requirements for each activity; o Resident preparation for each activity; o Plan to ensure that all necessary equipment for the activity is in good repair and appropriate for the activity; o Trip schedule giving addresses and phone numbers of locations to be visited and how the location was chosen/evaluated; o Plan to evaluate residents' physical health throughout the activity and to ensure that the activity is conducted within the boundaries of the resident's capabilities, dignity and respect for self-determination; and o If residents are to participate in an aquatic activity each resident must be classified in one of two classifications: swimmer or nonswimmer. Staff supervising the aquatic activity shall be aware of each resident's classification. • Requirements were also added that providers follow trip plans. Variations from the trip plans shall be documented and the reason for the variation shall be included. "Extended trips" means all-day or overnight trips – not short trips to the mall or to the movies. The expectations of trip planning will change depending on the facility size, the population served, the number of residents, and the type of trip.
910	950	Work and employment	The requirement that facilities have and implement policies and procedures to ensure that the work and pay of residents complies with applicable laws governing wages and hours and laws governing labor and employment of children in both work assignments and employment was changed to require the program director to evaluate the appropriateness of the work and the fairness of the pay.
950	1000	Emergency reports	• "Emergency report" was changed to "serious incident report" as this is the

			more accepted term. • It was clarified that the provider is to notify the regulatory authority within 24 hours of any serious illness or injury, any death of a resident, and all other situations as required by the regulatory authority.
960	1010	Suspected child abuse or neglect	The word incident was changed to suspected abuse or neglect.
965	1020	Grievance procedures	A requirement was added that all documentation regarding grievances be kept on file at the facility for three years unless other regulations require a longer retention period.
970	1030	Emergency and evacuation procedures	• A requirement was added to develop an emergency preparedness and response plan for all locations with consultation of the local emergency coordinator. • A requirement was added that the provider develop and implement emergency preparedness and response training for all employees, contractors, students, and volunteers within 14 days of begin date or before an individual is alone supervising residents and annually thereafter. • Evacuation drills still required.
NA	1040	Independent living programs	• Independent Living programs must use approved independent living curriculums and materials covering 15 required topics. • Within 14 days of placement an assessment must be completed on each resident using an approved assessment tool and covering the 15 topics. • Resident's service plans must reflect the 15 topic areas. • Staff must be trained within 14 days of hire on the curriculum and materials used by the program. • Staff to resident ratios shall be at least 1:15. Requirements added as several programs identified themselves as independent living programs but offered few structured services.
	1050	Mother/Baby programs	• A new section was added for

			mother/baby programs • The general ratio for staff to residents while residents are sleeping was changed to 1:8 from 1:10 for mother/baby programs. The number of mother/baby programs is increasing and the regulation had few standards to address this type of program.
510	1060	Camping/Adventure activities	• A new section was added regarding program activities at campsite programs and for programs who participate in adventure activities as the regulation had few requirements addressing program issues. As it has been determined that the Department of Health's summer camp regulation will be applied to campsite programs, most of the environmental standards were deleted under § 510. The remaining standards were moved to this section to keep all the campsite standards together.