

Virginia Regulatory Town Hall Agency Background Document Final Regulation

Agency Name: Departments of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services
VAC Number: 22 VAC 42-10-10 et seq.
Regulation Title: Standards for Interdepartmental Regulation of Children's Residential Facilities
Action Title: Approval of Final Regulation
Date: November 5, 1999

Summary:

The Standards for Interdepartmental Regulation for Children's Residential Facilities are promulgated by the Departments of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services in order to ensure the consistent regulation of children's residential facilities in Virginia. The regulation is intended to assure that a minimally acceptable level of care, treatment, and education are provided by children's residential facilities. The regulation replaces the current Standards for Interdepartmental Regulation of Residential Facilities for Children. The current regulations are being repealed.

The proposed regulation: (a) reorganizes and simplifies the current regulations, (b) assures the regulation addresses only the generic elements of care related to children, (c) increases licensees' flexibility to provide care based on their facility's programs and the populations served, (d) increases licensees' and regulators' opportunities for use of professional judgement, and (e) deletes requirements which restate law or outline the departments' policies or procedures and which are better incorporated in the departments' guidance materials. Major substantive changes include: (a) eliminating requirements addressed by the *Virginia Statewide Fire Prevention Code*, (b) updating requirements governing tuberculosis screening as

recommended by the Department of Health; (c) eliminating exceptions to the number of successive work days for staff attending training or supervising excursions, (d) increasing the number of staff members who must be certified in first aid or cardiopulmonary resuscitation, (e) requiring that all staff responsible for medication administration successfully complete a medication training program approved by the Board of Nursing or be licensed by the Commonwealth to administer medications; and (f) requiring that personnel records be maintained for volunteers and contractual service providers for whom background investigations are statutorily required. A number of requirements have been eliminated or liberalized.

Public Comment:

Throughout the process of developing this regulation, all the departments have worked closely with private and public providers of children's residential services and the Interdepartmental Regulation Advisory Committee. The departments received the support of the provider community to promulgate a regulation that addresses current good practices in the field of children's residential services. The public comment period extended from July 19, 1999 to September 17, 1999. A public hearing was held on August 20, 1999. Over 182 comments were received. Comments were received from several children's residential facilities, regulators from the 4 departments participating in the Interdepartmental Regulation program, a community services board, the boards of 2 departments, The Department for the Right of Virginians with Disabilities, the Interdepartmental Regulation Liaison Committee, The ARC of Virginia, the Mental Health Association of Virginia, and a professor from T.C. Williams School of Law Mental Disabilities Law Clinic, and Parents and Associates of the Institutionalized Retarded.

Changes since Proposed Regulation:

Several changes were made to the regulation as a result of public comment. Please see the attached Interdepartmental Regulations for Children's Residential Facilities – Public Comment Summary for details. The following are the substantial changes made to the regulation as a result of public comment:

- In the definition section terms not used in the regulation were deleted and terms used in the regulation were added. Behavior management, compliance plan, confined in detention with a suspended commitment to the Department of Juvenile Justice, detention home or secure detention, good character and reputation, goal, juvenile correctional center, licensee, medication error, objective, and strategy were added. Documented violation, management of resident behavior, professional child and family service worker, regulant, review, reviewer, substantial compliance, systemic, team, and therapist were deleted. **22 VAC 42-10-10**
- Sections containing standards regarding the legal base for the standards, the Interdepartmental Agreement, Preapplication Consultation, Application Forms, Investigation, and Visitation of Facilities that are found in the current standards were reinstated for clarity. **22 VAC 42-11, 22 VAC 42-12, 22 VAC 42-13, 22 VAC 42-14, 22 VAC 42-21, 22 VAC 42-22**
- The right to appeal and the appeal process were added to standards as required elements when the facility is notified when denial or revocation of a license or certificate is recommended as safeguards for the facilities. **22 VAC 42-10-70 and 22 VAC 42-10-80**
- A standard was added which authorizes the Departments of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services to investigate complaints and allegations at facilities where they have regulatory authority. **22 VAC 42-10-95**
- The term regulant was replaced in favor of the term licensee. **22 VAC 42-10-110**
- A new standard requiring facilities to write an annual report on the facility's effectiveness in meeting its objectives was replaced with standards requiring facilities to annually review the

program of the facility and to review, develop and implement programs and administrative changes in accord with the purpose of the facility as these standards provide more clarification to the facilities. **22 VAC 42-10-110**

- The standard requiring that funds be spent for the purpose they were collected was deleted as other standards provide necessary protections and this standard would have been difficult to assess. **22 VAC 42-10-120**
- Requirements that a facility develop a staff training plan and that regular supervision will not be the only method of staff development were added to ensure that staff receive appropriate training. **22 VAC 42-10-240**
- Standards regarding heating, ventilation, and cooling systems were added back to the standards to provide necessary safeguards for children. **22 VAC 42-10-335**
- The prohibition regarding smoking in sleeping areas was broadened to prohibiting smoking in living areas and where residents participate in programs to promote healthy living space for residents. **22 VAC 42-10-385**
- An exception was added to allow secure custody facilities to have an observation window in a door to a room used as a sleeping area for safety reasons. **22 VAC 42-10-390**
- Standards were added to the primitive campsite section to clarify issues related only to camping programs. **22 VAC 42-10-510**
- A requirement was added that all correspondence and documents received by the facility should be maintained in the resident's record to ensure that all information regarding the resident is easily accessible. **22 VAC 42-10-540**
- A requirement was added that facilities using automated records should have procedures to back up records to guard against the loss of information. **22 VAC 42-10-540**
- Requirements for the face sheet were revised to ensure that necessary information is available on the residents. **22 VAC 42-10-610**

- In several standards the exception for secure detention was changed to require secure detention to follow the standard if a resident was confined in detention with a suspended commitment to the Department of Juvenile Justice. **22 VAC 42-10-620, 22 VAC 42-10-630, 22 VAC 42-10-670, 22 VAC 42-10-700, 22 VAC 42-10-710, 22 VAC 42-10-780**
- A requirement was added that the program of the facility shall be designed to provide social services which address working with the resident and with the family or any placing agency that may be involved in planning for the resident's future. **22 VAC 42-10-670**
- The requirement that a facility implement procedures for promptly assessing the immunization status and administering age appropriate vaccines was deleted as it was covered in other standards. **22 VAC 42-10-700**
- Elements to be included in a physical exam report were added for clarity. **22 VAC 42-10-710**
- The requirement to have the number of the poison control center on one telephone was changed to require the number on all telephones with an outside line where children sleep or participate in programs for the protection of the residents. **22 VAC 42-10-720**
- In addition to requiring a bottle of syrup of ipecac, a container of activated charcoal will also be required for the safety of the residents. **22 VAC 42-10-720**
- A requirement to keep syringes and other medical implements used for cutting or injecting the skin locked was added for the protection of residents. **22 VAC 42-10-720**
- A requirement was added that staff must check on residents in confinement more often than every 30 minutes depending on the nature of the resident's disability, condition and behavior for the protection of residents. **22 VAC 42-10-790**
- A requirement to document staff checks on residents in confinement was added to ensure good documentation of such incidents. **22 VAC 42-10-790**

- A requirement for the facility to review the facility's physical restraint training with staff responsible for the supervision of children annually was added to ensure that staff are well trained. **22 VAC 42-10-820**
- A standard was reinstated from the current standards requiring a facility to contact the superintendent of public schools in the locality when a child with disabilities is placed in the facility without the knowledge of school division personnel in the resident's home locality. **22 VAC 42-10-850**
- A standard was reinstated to require facilities, except temporary care facilities and secure detention unless the juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice, to make visitation policies and procedures available to parents, legal guardians, the resident, and other interested persons important to the resident no later than the time of admission. When parents or legal guardians do not participate in the admission process, visitation policies and procedures will be mailed to them within 24 hours to ensure that parents and legal guardians receive this information. **22 VAC 42-10-920**
- For facilities that allow staff to take residents to the staff's home, a requirement was added that the facility must receive written permission from the resident's legal guardian or placing agency before the visit occurs for the protection of the resident and staff. **22 VAC 42-10-925**
- A requirement that taking head counts at each stop shall be included in the written safety rules for the transportation of children was added to ensure the protection of residents. **22 VAC 42-10-930**

A requirement to develop and implement a grievance procedure for residents was added for the protection of residents. **22 VAC 42-10-965**

Summary of the Regulation

Virginia Code §§ 22.1-321, 22.1-323, 22.1-323.2, 37.1-182, 16.1-309.9, 66-10, 66-24, 37.1-183.1, 37.1-189.1, 63.1-25, 63.1-196, 63.1-196.4, and 63.1-217, respectively, authorize and require the Boards of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services to promulgate *Standards for Interdepartmental Regulation of Children's Residential Facilities*. The Boards are also required to cooperate with one another in the promulgation of such regulation.

The regulation is intended to assure that a minimally acceptable level of care, treatment, and education are provided by children's residential facilities. The regulation replaces the current *Standards for Interdepartmental Regulation of Residential Facilities for Children* (8 VAC 20-50-10 et seq., 6 VAC 35-50-10 et seq., 12 VAC 35-30-10 et seq., and 22 VAC 40-150-10 et seq.). The current regulations are being repealed.

The proposed regulation: (a) reorganizes and simplifies the current regulations, (b) assures the regulation addresses only the generic elements of care related to children, (c) increases licensees' flexibility to provide care based on their facility's programs and the populations served, (d) increases licensees' and regulators' opportunities for use of professional judgment, and (e) deletes requirements which restate law or outline the departments' policies or procedures and which are better incorporated in the departments' guidance materials. Major substantive changes include: (a) eliminating requirements addressed by the *Virginia Statewide Fire Prevention Code*, (b) updating requirements governing tuberculosis screening as recommended by the Department of Health; (c) eliminating exceptions to the number of successive work days for staff attending training or supervising excursions, (d) increasing the number of staff members who must be certified in first aid or cardiopulmonary resuscitation, (e) requiring that all staff responsible for medication administration successfully complete a medication training program approved by the Board of Nursing or be licensed by the Commonwealth to administer medications; and (f) requiring that personnel records be maintained for

volunteers and contractual service providers for whom background investigations are statutorily required. A number of requirements have been eliminated or liberalized. A list of substantive changes made to the regulation as a result of public comment is attached.

Basis, Purpose, Substance, Issues, and Estimated Impact

Basis of the regulation: Virginia Code ' ' 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, 63.1-25, 63.1-196, 63.1-196.4, and 63.1-217, respectively, authorize and require the Boards of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services to promulgate standards regulating of children=s residential facilities. The Boards are also required to cooperate with each other in the promulgation of such regulation. The Boards have jointly developed the proposed *Standards for Interdepartmental Regulation of Children=s Residential Facilities*.

Purpose of the regulation: The regulation is intended to: (a) protect the vulnerable children who are separated from their families and reside in children=s residential facilities and (b) assure that a minimally acceptable level of care, treatment, and education are provided by the licensees. The regulation replaces the current *Standards for Interdepartmental Regulation of Residential Facilities for Children* (8 VAC 20-50-10 et seq., 6 VAC 35-50-10 et seq., 12 VAC 35-30-10 et seq., and 22 VAC 40-150-10 et seq.). The current regulations are being repealed.

Substance of the regulation: The proposed regulation: (a) reorganizes and simplifies the existing regulations, (b) assures the regulation addresses only the generic elements of care related to all children, (c) increases licensees' flexibility to provide care based on the facility's program and the population served, (d) increases licensees' and regulators' opportunities for use of professional judgment, and (e) deletes requirements which restate

law or outline the departments= policies or procedures and which are better incorporated in the departments= guidance materials. Major substantive changes include: (a) eliminating requirements addressed by the *Virginia Statewide Fire Prevention Code*, (b) updating requirements governing tuberculosis screening as recommended by the Department of Health; (c) eliminating exceptions to the number of successive work days for staff attending training or supervising excursions, (d) increasing the number of staff members who must be certified in first aid or cardiopulmonary resuscitation, (e) requiring that all staff responsible for medication administration successfully complete a medication training program approved by the Board of Nursing or be licensed by the Commonwealth to administer medications; and (f) requiring that personnel records be maintained for volunteers and contractual service providers for whom background investigations are required. A number of requirements have been eliminated or liberalized.

A list of substantive changes made to the regulation as a result of public comment is attached.

Issues in the regulation: Children in residential care have a multitude of problems and disabilities. The licensees provide a variety of programs to meet the needs of their customers. As a result, many facilities are subject to regulation by more than one department. The *Standards for Interdepartmental Regulation of Children=s Residential Facilities* establish consistency among the departments and eliminate duplicative and

conflicting expectations among them. Consistent expectations facilitate implementation of the regulatory process for both licensees and regulators.

Estimated Impact of the regulation: The departments currently regulate approximately 200 children=s residential facilities which are subject to the regulation. The licensees are presently subject to substantially similar requirements. It is projected that licensees will experience some cost shifting due to eliminating some existing requirements and adding new requirements. The licensees may experience some additional costs. The proposed regulation was developed by an ad hoc standards development committee which included representatives of provider associations; they actively involved their constituents during the drafting process. They support the proposed regulation as consistent with standard practice in the field or as necessary to assure a minimally acceptable level of care, treatment, and education are provided by children=s residential facilities. The departments currently employ professional regulators to monitor children=s residential facilities; there will not be a fiscal impact on the departments. These standards will not have an impact on the citizens of Virginia unless they operate a children=s residential facility.

**INTERDEPARTMENTAL REGULATIONS
FOR CHILDREN'S RESIDENTIAL FACILITIES
PUBLIC COMMENT SUMMARY**

General Comments

The name of the standards should be changed to the Standards for Interdepartmental Regulation of Children's Residential Facilities. Changing the name to Standards for Interagency Regulation would require many other documents, etc. to have to have their name changed. People are familiar with the Interdepartmental Program. Name change would be confusing. (Liaison Committee)

Response: Changed the name of the standards to Standards for Interdepartmental Regulation of Children's Residential Facilities.

Standards should have an objective means of measurement rather than vague terms such as safe, clean suitable. (MR Advocacy Group)

Response: Wherever possible measurements were used in these standards.

The proposed standards do appear to reorganize and simplify the current standards, as well as increase the provider's and regulator's opportunities for use of professional judgement. The provider concurs with the proposed revisions. (DMHMRSAS facility)

Response: No response required.

22 VAC 42-10-10. Definitions.

The term regulant is confusing. (Liaison Committee, DSS Regulators, DJJ facility)

Response: The term regulant was replaced with the term licensee, which is the term currently used.

The term group home should be added to the definition section. (DSS Regulators)

Response: A definition of group home was added to the definition of the term residential facility.

The term informed consent should be added to the definition section. (MR Advocacy Group)

Response: This term is not used in the regulation so was not added to the definitions. The term is used and defined in module standards.

Add a definition of behavior management. (DSS Regulators)

Response: The definition of management of resident behavior was replaced with a definition of behavior management that clarifies what is involved and will help providers know what to include in their policies and procedures.

Add a definition of immediately. (DSS Regulators and DOE facility)

Response: A definition of immediately was added to avoid confusion regarding the interpretation of the word.

The term strip search needs to be clarified. (DSS Regulators)

Response: The term strip search was changed to make it clear that requiring a resident to remove his outer clothing and leaving the resident in his underwear constitutes a strip search, as well as requiring the resident to remove all his clothing.

Delete the term temporary care facility and replace with temporary emergency shelter as this is consistent with the *Code of Virginia*.(DSS Regulators)

Response: Changed the definition of temporary care facility to include emergency shelters and changed the length of stay from 60 to 90 days.

Add a definition of good character and reputation. (DSS regulators)

Response: Added a definition of good character and reputation. This new term was also used in a new standard added under 22 VAC 42-10-70. Denial.

The definition section appears inadequate, as it does not define terms used throughout the proposed standards. Definitions of all terms of art should be developed. (Law)

Response: If words were clear from the context they were not defined.

Definitions should be written to conform with “People First” language.(Law)

Response: Definitions were changed to conform to “People First” language which emphasizes the person first rather than defining the person by the disability.

The definition of “documented violation” refers to a “compliance plan” but there is no definition of “compliance plan” in the standards. A definition for this term should be developed. (Law)

Response: Added “compliance plan” means violations documented by the regulatory authority and the facility’s corrective action to the documented violations within a specified time frame. Deleted the documented violation definition.

Definitions of counselor and counseling should be added. (Law)

Response: Deleted the terms counseling and counselor and used only the term social services to avoid confusion with therapy and therapist.

“Individual behavior management plan” - the definition does not include a requirement that personnel implementing “individual behavior management plans” be “professionally” trained. Profession training in behavioral management should be a requirement. Moreover, “professional training” should be defined as training received through formal course work and participation in seminars and workshops, not on-the-job training. (Law)

Response: The term was not added, as it was not used in the regulation. A new definition of behavior management was added. A standard was added that says supervision of staff shall not be the only method of staff development.

“Residential Facility for Children” - the definition should specify that the private psychiatric hospitals serving children shall be licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services. (Law)

Response: The definition was amended as suggested.

“Substantial compliance”- this definition is too vague to give appropriate guidance on whether a facility meets the standard. There is also no definition of compliance. (Law)

Response: The definition of substantial compliance was deleted.

Delete the term “allegation”, as it is not used in the regulation. (DJJ)

Response: The term was not deleted as a standard, giving the four departments the authority to investigate allegations and complaints, was added.

Gender neutral language should be adopted in the definitions. (DJJ)

Response: Definitions of “child with special needs,” “responsible adult,” and “visually impaired child” were amended to use gender neutral language.

Delete the term complaint from the definitions, as it is not used in the regulation.

Response: The term was not deleted as a standard, giving the four departments the authority to investigate allegations and complaints, was added.

The definition of corporal punishment should be clear that actions that are necessary to protect self or others are not considered “corporal punishment.”

Response: The definition was changed to read, "Corporal punishment" means punishment administered through the intentional inflicting of pain or discomfort to the body through actions such as, but not limited to, striking or hitting with any part of the body or with an implement; or through pinching, pulling, or shaking; or through any similar action which normally inflicts pain or discomfort.

Delete the term “DJJ”, as it is not used in the regulation. (DJJ)

Response: The term “DJJ” was deleted.

Delete the term “documented violation.” (DJJ)

Response: Deleted the term.

Add "Confined with a suspended commitment to the Department of Juvenile Justice" means that a court has committed the juvenile to the Department of Juvenile Justice but has suspended the commitment and ordered the juvenile confined in a local detention home for a period not to exceed six months. (DJJ)

Response: The definition was added as the regulation needed to define when post-dispositional detention is subject to certain requirements of these standards, since the exemptions for secure detention homes do not appear appropriate in the case of long-term placements such as those provided for in *Code of Virginia* § 16.1-284.1.b.

Delete the term “individual behavior management plan.” (DJJ)

Response: Deleted the term, as it was not used in the regulation.

Delete the term “professional child and family service worker.” (DJJ)

Response: The term was deleted, as the definition was redundant and not needed.

Delete the term “review” and “reviewer.” (DJJ)

Response: These terms were deleted, as they were not used in the regulation.

Revise the term “right.” (DJJ)

Response: The term “right” was revised to "Right" is something to which one has a ~~natural~~, legal or ~~moral~~ contractual claim as the term was restricted to a legal or contractual claim. (DJJ)

Delete the term “sanitize”, as it is not used in the regulation. (DJJ)

Response: Change the definition to sanitizing agent, as this is the term used in the regulation.

Delete the term systemic as it is only used as part of systemic deficiency. (DJJ)

Response: Deleted the term.

Revise the definition of systemic deficiency. (DJJ)

Response: Revise definition to say, “systemic deficiency” means violations documented by a reviewer the regulatory authority which demonstrate defects in the overall operation of the facility or one or more of its components. (See definitions of “documented violation” and “systemic”) Several terms used in this definition have been deleted.

Delete the term “team”, as it is not used in the definition. (DJJ)

Response: The term was deleted.

The term “therapist” could be deleted if the definition was incorporated into the standard. (DJJ)

Response: The definition of therapist was incorporated into standard 22 VAC 42-10-680 to clarify the standard.

Subsection F should be changed to comport with the suggested change in the definition of "substantial compliance" such that it reads: "A license or certificate shall not be issued to a facility when there is not compliance on a life, health, or safety standard." (Law)

Response: The definition of substantial compliance was deleted. 22 VAC 42-10-30 A was changed to read “The facility shall demonstrate full compliance with sufficient applicable standards to clearly demonstrate that its program and physical plant can provide reasonable safe and adequate care while approved plans of action to correct findings of noncompliance are being implemented and there are no non-compliance which pose an immediate and direct danger to residents.”

22 VAC 42-10-30 F was revised to read “A license or certificate shall not be issued to a facility when noncompliance poses an immediate ~~and direct~~ danger to the resident’s life, health or safety.

22 VAC 42-10-40

The standards regarding the duration of licenses should be reworded to clarify how many times a license can be issued. (Liaison Committee)

Response: The standards were revised to read:

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

A provisional license or certificate may be renewed, but a provisional license or certificate and any renewals thereof shall not exceed a period of six successive months for all provisional licenses and renewals combined.

A conditional license or certificate may be renewed, but a conditional license or certificate and any renewals thereof shall not exceed a period of six successive months for all conditional licenses and renewals combined.

The word "may" in subsection A should be changed to "shall" to ensure that children in residential facilities operating under certification by the Department of Juvenile Justice are afforded the same benefits and protections as children in other residential facilities. (Law)

Response: Subsection A was revised to read:

A. ~~A facility operating under certification by the Department of Juvenile Justice may be issued a license or certificate indicating the facility’s status regarding compliance with the Interagency Standards and other applicable regulations and statutes. Such license or certificate shall be effective for the period specified by the Board of Juvenile Justice, unless it is revoked or surrendered sooner.~~ The Board of Juvenile Justice shall issue a certificate to each facility regulated by the Board, indicating the facility’s certification status when the facility is in compliance with these Interdepartmental Standards, other applicable regulations issued by the Board, and applicable statutes. The certificate shall be effective for the period specified by the Board unless it is revoked or surrendered sooner.

22 VAC 42-10-60. Modification.

Recommend changing the time frame specified in “C” from 30 days to 60 days. The new sentence will read: The licensee shall be notified in writing within 60 days following receipt of the request as to whether the modification is approved or a new license or certificate is required.

Rationale: This is consistent with the time frame for initial applications. (DSS Regulators)

Response: The standard was changed to say 60 days.

22 VAC 42-10-70. Denial.

Recommend adding criteria for denial of an application for licensure to say: An application for licensure or certification may be denied when the applicant:

- a. Violates any provision of applicable Laws or regulations made pursuant to such Laws;
- b. Has a founded disposition of child abuse or neglect after the appeal process has been completed;
- c. Has been convicted of a crime listed in § 63.1-248.7:2 of the *Code of Virginia*;
- d. Has made false statements on the application or misrepresentation of facts in the application process;
- e. Has questionable character and reputation as determined through references, background investigations, driving records, and other application materials. (DSS Regulators and LC)

Response: The following denial criteria were added:

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

1. Violates any provision of applicable Laws or regulations made pursuant to such Laws;
2. Has a founded disposition of child abuse or neglect after the appeal process has been completed;
3. Has been convicted of a crime listed in §§ 37.1-183.3 and 63.1-248.7:2 of the *Code of Virginia*;
4. Has made false statements on the application or misrepresentation of facts in the application process;
5. Has not demonstrated good character and reputation as determined through references, background investigations, driving records, and other application materials.

22 VAC 42-10-80. Revocation.

Add the following as one of the criteria for revocation of a license:

6. The licensee has engaged in an activity, policy, practice, or conduct that adversely affects or is deemed by the regulatory authority to be detrimental to the education, health, safety, treatment needs or well-being of children, or that otherwise demonstrates unfitness by the chief administrator or by any employees to operate a facility or program. (DSS Regulators)

Response: Not added as it is already covered in 22 VAC 42-10-80 A.

Add standards that recognize the applicant's right to appeal denial and revocation or other sanctions. (DSS Regulators)

Response: A requirement for the facility to be notified of their right to appeal and the appeal process was added to 22 VAC 42-10-70. Denial. and 22 VAC 42-10-70. Revocation.

The word "may" in subsection A should be changed to "shall." The situations described in 1 through 5 are egregious actions and the revocation of a license should not be discretionary when a licensee commits one of these acts. (Law)

Response: The word may was not changed, as the regulatory authority must be able to evaluate each situation on a case-by-case basis.

22 VAC 42-10-110. Responsibilities of the Regulant.

Several commenters found standard 110 D, which required the facility to annually prepare a report on the facility's effectiveness in meeting its objectives and, as needed, make appropriate changes to be confusing.

Response: Standard 22 VAC 42-10-110 D was deleted and the following standards were reinstated:

D. The licensee shall review, at least annually, the program of the facility in light of the population served and the objectives of the facility.

E. The licensee shall review, develop and implement programs and administrative changes in accord with the defined purpose of the facility.

We recommend retaining Standard 2.4 and 2.4.1 and 2 from the current Interdepartmental Standards. These read: "The licensee shall develop and implement written policies governing the licensee's relationship to the chief administrative officer (CAO) that shall include, but shall not be limited to: Annual evaluation of the performance of the CAO and provision to meet with the governing body or with the immediate supervisor to periodically review the services being provided, the personnel needs and fiscal management of the facility."

These requirements are basic to sound management of a children's residential facility and should not be removed from the requirements. (DSS Regulators)

Response: These standards will not be reinstated as the requirements are covered by new 22 VAC 42-10-110 D and E. The annual evaluation of the CAO would be required under 22 VAC 42-10-230 B 5.

22 VAC 42-10-120. Fiscal Accountability.

Eliminate "B. All funds shall be spent for the purpose for which they were collected." If the funds are not spent on the residents, there will be violations in the applicable standards related to their care. This will be a difficult standard to determine compliance with as it is written. (DSS Regulators)

Response: The standard was deleted, as the point the commenters make was valid.

A "subsection 4" should be added to ensure integrity: "A written assurance from the licensee that the documentation provided for in subdivisions 1, 2, and 3 above presents a complete and accurate financial report reflecting the current fiscal condition of the facility." The proposed standards do not appear to require these assurances elsewhere. While subsection B ("All funds shall be spent for the purpose for which they were collected.") is a fine addition, it does not take the place of this assurance of integrity. (Law)

Response: Suggested subsection was not added, as it was determined it was not necessary. The facility must provide the documentation to show fiscal accountability. Requesting a written assurance does not insure that the documentation is correct.

C 42-10-140. Fund Raising.

The facility shall not use residents 14 years of age or older in its fund-raising activities without the resident's permission. Comment: make clear that consent is required of both the legal guardian and the resident if over the age of 14 but why not age 12 or 10? (DJJ)

Response: The two standards under 22 VAC 42-10-140. Fund Raising were combined into one standard to clarify that consent is required from both the legal guardian and the resident if the child is 14 years or older. The age 14 was kept, as this is the age of consent for various purposes.

22 VAC 42-10-150. Weapons.

This section should be deleted and replaced with "The facility shall have and implement a written policy prohibiting the possession and use of firearms, pellet guns, air rifles, and other weapons on the facility's premises."

As it is currently drafted, the proposed section would permit loaded firearms to be carried routinely in children's residential facilities. This is dangerous and potentially fatal, as a gun may misfire or may be wrestled out of the control of the "licensed security personnel" or the "responsible adult." Further, it is unwise to send the implicit message to impressionable children that it is appropriate to carry loaded weapons, let alone to carry them in a children's residential facility. The proposed standard's "under lock and key" provision is not a guarantee of safety either, as children have been known to break into locked gun lockers and obtain access to weapons.

This proposed section's close similarity to §4.63 is no excuse to include it in revised standards. Much has happened since the previous standard's development to serve as a warning of the risks of weapons. And children's exposure to guns has also increased so that their seeing guns anywhere in their residences would send the opposite message from what they need to receive -- that it is more safe not to have any contact whatsoever with guns.

This standard causes additional concern because Department of Juvenile Justice (DJJ) facilities are currently understaffed and may require juvenile correctional officers (JCOs) to work mandatory overtime. JCOs, whose judgment may be impaired either by fatigue or fear generated by supervising too many children, may resort to use of a firearm, if available, more readily than would be warranted by a situation. In addition, JCOs who are supervising too many children are more likely to be overwhelmed by children and have their weapons confiscated by them. Recent incidents of violence against JCOs as reported by DJJ at a recent Board of Juvenile Justice meeting illustrate this possibility (JCOs, working alone, overwhelmed from behind). (Law)

Response: The word securely was added to 22 VAC 42-10-150 (Securely under lock and key). Police and other security personnel can not be told to take off their weapons when entering a facility. The proposed standard does prohibit firearms except in these specified circumstances.

22 VAC 42-10-180. Health Information.

If the test for tuberculosis required in 180 B 1 is so important, then employees should be required to get it before they have contact with kids. (DJJ facility)

Response: The standard was not changed as facility staff may have difficulty getting the test. The seven-day time period does not put children at high risk.

The principal of Universal Precautions should be added. (MR Advocacy Group)

Response: Universal Precautions are covered in 22 VAC 42-10-710 H. Other laws facilities operate under also require Universal Precautions.

B. 4. Recommend removing this standard which grants exceptions for TB tests.
Rationale: This is difficult for facilities to verify and allows too many loopholes for employees who have worked at another licensed facility. (DSS Regulators)

Response: The standard was not changed, as exceptions are needed for individuals who change jobs from one facility to another. The Department of Health approved this standard.

C. 3. This standard is not clear as it is written. What does this mean? “Any individual not previously reacting significantly to a Mantoux tuberculin skin test shall be retested annually. Annual chest x-rays are not required in the absence of symptoms.” (DSS Regulators)

Response: To clarify the standard the word annually was added to B2, which allowed C.3 to be deleted.

A. Health information required by ~~this regulation~~ 22 VAC 42-10-180 shall be maintained for each staff member and for each individual who resides in a building occupied by residents including each person who is not a staff member or resident of the facility. Comment: clarify who is covered by the standard. (DJJ)

Response: The standard was changed as proposed for clarification.

22 VAC 42-10-190. Physical or Mental Health of Personnel.

"Or as a result of tests" should be inserted after the first appearance of the word "professional" in subsection B (as it is in § 3.8). Certain conditions that may jeopardize the safety of residents or which would prevent the performance of duties may only be detected through tests. (Law)

Response: Standard 22 VAC 42-10-190 B was changed to read “An individual who is determined upon examination by a licensed physician or mental health professional, to shows an indication of a physical or mental condition...”

22 VAC 42-10-230. Personnel Records.

Recommend adding a new standard requiring facilities to assure access to automated personnel records by those with the authority to review them. (DSS Regulators)

Response: This change is not needed as standard 22 VAC 42-10-160 A requires that facilities make information available.

22 VAC 42-10-240. Staff Development.

B. Recommend re-wording to require specific orientation and on-going training to direct care staff and supervisors of child care staff in the skills needed to enable staff to perform their job responsibilities.

Add new standard that says that staff training shall not be limited to CPR, First Aid, and a review of the facility's policies and procedures. (DSS Regulators)

Response: Standard 22 VAC 42-10-240 B was left as is but a new standard was added that says, "The facility shall develop a staff training plan that addresses the knowledge, skills, and abilities that employees need to perform their jobs."

Add where appropriate that training in the facility's restraint methods shall be up-dated annually. (DSS Regulators)

Response: A requirement to review the facility's restraint procedures and less intrusive interventions with staff annually was added to 22 VAC 42-10-860 to ensure that all staff are up-to-date on this information.

Add where appropriate that the facility shall provide training for direct care staff in Universal Precautions. (DSS Regulators)

Response: A new standard was not added as policies and procedures regarding Universal Precautions are required in 22 VAC 42-10-710 H. Facilities would also have to follow state and federal laws regarding Universal Precautions.

Medication training shall be updated every three years. (DSS Regulators)

Response: This requirement was not added as facilities use specific curriculums for medication training. Possibly, recertification can be part of the curriculum.

The sentence "Regular supervision of staff shall not be the only method of staff development" should be added to this section to ensure appropriate staff development. See § 3.25. (Law)

Response: This requirement was reinstated into the standards.

22 VAC 42-10-260. Chief Administrative Officer.

We support the addition of qualifications for this critical position. (DSS Regulators)

Response: Qualifications for the Chief Administrative Officer were left unchanged.

22 VAC 42-10-270. Program Direction.

Standard “A” needs clarification as follows: “The facility shall have at least one person qualified and responsible to direct the program.” Recommend title is changed back to “program director.” (DSS Regulators)

Response: Change A to read, “The facility’s program shall be directed by 1 or more qualified persons.” Delete D which said, “Any qualified person may serve as the program director.”

Does “C” still allow facilities with less than 13 residents to have a part-time program director? We recommend that the standards require every facility to have a program director. (DSS Regulator)

Response: Facilities with less than 13 residents may have a part-time program director. Standard was not changed as many small group homes run by the same sponsor share program directors.

We recommend revisions to “F” related to the qualifications of the child care worker as follows:

After the effective date of this regulation, a child care worker shall:

1. Have a baccalaureate degree from an accredited college or university in a field related to human services or education; or
2. Be a high school graduate or have a GED Certificate and have demonstrated, through at least one year of previous work and ~~life~~-volunteer experiences, an ability to maintain a stable environment and to provide guidance to children in the age range for which the child care worker will be responsible.

Rationale: The childcare worker position is extremely critical in these facilities. The person, who is with the child the majority of the time, is responsible for discipline, supervision, and personal care. We believe that having more qualifications required for this position would protect children in care. (DSS Regulator)

Response: Standard was left unchanged as changing it as suggested might cause an economic impact on facilities. Childcare worker is often an entry-level job and to require a year’s previous experience would exclude many individuals from applying or from being able to gain experience. Manual material should be written to encourage facilities to look carefully at staff qualifications.

22 VAC 42-10-290. Relief Staff.

~~Sufficient~~ qualified relief staff shall be employed as necessary to maintain required staff/child ratios at all times.

Comment: The term "sufficient" is unclear and unmeasurable; it should be dropped. The term "relief staff" is not defined, and could mean simply "staff who are not scheduled to work at a given time who are called into service when needed." It could also mean "persons other than regular staff who are on-call in case of staffing problems." The term "employed" is not clear: must a facility actually use and pay relief staff to meet this standard, or does it suffice to have a roster of on-call persons who COULD be called if needed? Finally, if the measure of compliance with this standard is whether the required staff/child ratios are maintained, is that not better determined under THOSE standards than under a separate standard here? If so, perhaps this standard should be deleted. But at least the standard should be amended along the lines suggested. (DJJ)

Response: Change to "Qualified relief staff shall be employed as necessary to maintain required staff/child ratios at all times and to maintain a structured program of care in accordance with 22 VAC 42-10-690 to clarify the standard.

22 VAC 42-10-330. Buildings, Inspections, Building Plans.

D. The buildings shall provide adequate space and shall be of a design that is suitable to house the programs and services provided. Comment: the term "suitable" is unfairly vague. Please clarify. A suggestion is offered, but it is not clear that this is the intent of the standard. (Alternatively, this standard might be replaced by one requiring the programs and services be suitable to the space and design of the building, since in some cases the building came first.) (DJJ)

Response: Standard was changed as suggested.

22 VAC 42-10-340. Lighting.

340 E - Flashlights - Put back the statement saying during the hours of darkness or from dusk to dawn. During the day there are many employees and that would be a lot of flashlights. (Old standard says operable flashlights or battery lanterns shall be available for each staff member on the premises between dusk and dawn for use in emergencies. (DJJ facility)

Response: The standard was changed as proposed, inserting from dusk to dawn.

22 VAC 42-10-380. Sleeping Areas.

Concern/questions were asked regarding the deletion of the requirement of fire retardant pillows: Why the inconsistency in deleting this requirement and not the one for fire retardant mattresses? Shouldn't we keep this requirement for the safety of the children? (DMHMRSAS Board)

Response: No change was made to the proposed standard. The standard regarding fire retardant pillows was unenforceable. Residents found these pillows uncomfortable and often switched to pillows that are not fire retardant after the regulator left. The Federal Government sets standards for mattresses but not pillows.

M. states that smoking shall be prohibited in sleeping areas. Recommend that a new standard be added to the residential environment section prohibiting smoking inside any of the buildings. A standard should be added to Part IV – Programs and Services to prohibit smoking by residents under the age of 18, as required by Law. (DSS Regulators)

Response: The standard was changed to “Smoking shall be prohibited in living areas and in areas where residents participate in programs. No new standard was added to prohibit smoking by residents under 18 as it is already prohibited by the *Code of Virginia*.

In subsection C, the words "are dependent upon" should be replaced by the word "use." (Law)

Response: The standard was changed as suggested, as this wording is more accurate than the previous wording.

22 VAC 42-10-390. Resident's Privacy.

390 C - Allow viewing holes or observation windows in doors at secure custody facilities. (DJJ facility)

Response: “In secure custody facilities the door may be equipped with an observation window.” was added to 22 VAC 42-10-390.

22 VAC 42-10-450. Staff Quarters.

Standard needs to be clarified. Standard A should read, “A separate, private bedroom shall be provided for staff and their families when a staff member is on duty for 24 consecutive hours or more. A new Standard B should read, “A separate private bathroom shall be provided for staff and their families when there are more than 4 persons in the living unit and the staff person is on duty for 24 consecutive hours or more. (Current standard B should become C, C should become D, and D should become E.) (LC)

Response: The standards were changed as proposed to provide clarification.

22 VAC 42-10-490. Housekeeping and Maintenance.

Recommend that standards requiring buildings be heated and well ventilated be added back in. The standard setting temperatures of buildings should be reinstated. See current standards 4.7, 4.8, and 4.10.

Response: The following standards were reinstated as new section 22 VAC 42-10-335 with the approval of the Department of Housing and Community Development:

A. Heat shall be evenly distributed in all rooms occupied by the residents such that a temperature no less than 65EF is maintained, unless otherwise mandated by state or federal authorities.

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

C. Air conditioning or mechanical ventilating systems, such as electric fans, shall be provided in all rooms occupied by residents when the temperature in those rooms exceeds 85EF.

22 VAC 42-10-510. Campsites.

Some of the campsite standards need to be clarified as there is confusion regarding what standards in Part III Residential Environment apply at primitive campsites. (DSS and DOE Regulators)

Response: The campsite section of the standards was compared to the residential environment section of the standards and standards were added to the campsite section to clarify the campsite standards.

22 VAC 42-10-540. Maintenance of Resident's Records.

A standard L should be added which says, "Facilities using automated records shall develop and implement procedures for backing up records." (LC)

Response: The suggested standard was added to guard against the loss of information.

"A". Add the underlined sentence to this standard. A separate written or automated case record shall be maintained for each resident and shall be accessible to authorized staff, the placing agency worker, and the regulatory authority. Automated records shall be locked or password protected. (DSS Regulators)

Response: The suggested standard was not added, as it was determined it was not necessary.

“F”. Recommend deleting the words “Active and inactive” and say: When not in use, written resident records shall be stored in a metal file cabinet or other metal compartment. (DSS Regulators)

Response: The standard was changed as suggested and was renumbered to number 1 under standard 22 VAC 42-10-540 E.

“G”. Repword this standard so it is not so confusing. Possibly, Facility staff shall assure the confidentiality of the resident’s records by placing them in a locked cabinet or drawer or in a locked room when the staff member is not present. (DSS Regulators)

Response: The standard was changed as suggested and was renumbered to number 2 under standard 22 VAC 42-10-540 E.

A. This section should be amended to include the maintenance of all correspondence relating to the care of the resident. Suggested language: "A separate written or automated case record shall be maintained for each resident. In addition, all correspondence relating to the care of that resident should be maintained as part of the case record." (Law)

Response: The standard was revised as follows to insure that important information are maintained on each resident:

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

J. This section should read as follows: "The face sheet and discharge information, including discharge summary, shall be retained permanently unless otherwise specified by state or federal requirements." This clarifies that the discharge summary will be retained permanently. (Law)

Response: The following was added to 22 VAC 42-10-610. Face Sheet, as the face sheet must be retained permanently:

At the time of discharge the following information shall be added to the face sheet:

Date of discharge

Reason for discharge

Names and addresses of persons to whom the resident was discharged

Forwarding address of the resident, if known.

In 22 VAC 42-10-540 J and discharge information was deleted as this information would now be found on the face sheet.

22 VAC 42-10-560. Participation of Residents in Human Research.

Needs to include informed consent of guardian/parent as well as option to NOT participate, if desired. (MR Advocacy Group)

Response: No change was made to the standard. The standard does not say residents must participate. Facilities must follow the guidelines of lead licensing agency.

Subsection 2 ("Document appropriate approval, as required by the regulatory authorities, for each research project using residents as subjects of human research.") should be deleted. "Appropriate approval" is too vague, and it implicitly, but without clarification or justification, states that there are situations in which it would be appropriate to use residents as subjects of human research. (Law)

Response: 22 VAC 42-10-560 Subsection 2 was amended to read, " Document ~~appropriate~~ approval, as required by the appropriate regulatory authorities, for each research project using residents as subjects of human research."

22 VAC 42-10-580. Application for Admission.

A new section should be added to the beginning of 22 VAC 42-10-580 stating:
"Facilities shall only operate at or below their licensed capacity. If it is determined that the facility must operate above the stated capacity for more than 24 hours, this is to be considered as only a temporary situation and the following actions must occur.

1. The Regulatory Authority shall be notified that the facility is operating above the stated capacity within 24 hours of the admission of a child over stated capacity;
2. The facility must ensure that all "Residential Environment" Standards are being provided to each child in care; and
3. The facility must inform the Regulatory Authority within 24 hours in writing how and when the census will be reduced to return to the licensed capacity."

This addition is needed to ensure that facilities do not routinely operate over stated capacity as some currently do. (Law)

Response: This standard was not changed. 22 VAC 42-10-30 C states the facility shall comply with the terms of its license. These standards can not sanction facilities to operate over capacity.

22 VAC 42-10-600. Written Placement Agreement.

Recommend adding an exception to “B” for facilities licensed by the Department of Social Services as permitted by § 63.1-204 of the *Code of Virginia*.

Exception: A child caring institution licensed as a temporary emergency shelter may accept a child for placement provided that verbal agreement for placement is obtained from the parents, guardians, relatives or other persons having legal custody thereof, within eight hours of the child’s arrival at the facility and provided that a written placement agreement is completed and signed by the legal guardian and the facility representative within twenty-four hours of the child’s arrival or by the end of the next business day after the child’s arrival (pursuant to § 63.1-204 of the *Code of Virginia*).
(DSS Regulators)

Response: This exception was added to 22 VAC 42-10-600 - except as permitted for temporary emergency shelters pursuant to § 63.1-204 of the *Code of Virginia*.

22 VAC 42-10-610. Face Sheet.

Recommend adding a new standard to this section for programs that serves pregnant teens and their infants.

C. The face sheet for pregnant teens shall also include the expected date of delivery and the name of the hospital to provide delivery services to the resident.

D. The face sheet for infants shall also include the type of delivery, weight and length at birth, any medications or allergies, the current formula for the infant, and the name and address, if known, of the biological mother and father, unless the infant has been released for adoption.

Response: The suggested standards were added to the regulation.

22 VAC 42-10-620. Initial Objective and Strategies.

Time requirements of 72 hours are stringent for ICF/MR and for Respite Services an IHP is unnecessary if coming under 30 consecutive days. (MR Advocacy Group)

Response: For children’s residential facilities these requirements are necessary. The time frame is necessary to ensure the delivery of appropriate services until a comprehensive plan can be developed.

This standard needs clarification regarding the content of the children’s goals and objectives. The language used in this standard implies that the orientation phase of the

placement should immediately begin addressing all of the child's needs. The first seventy-two hours of a child's placement is spent on orientating and stabilizing the child in her/his new environment. To try to begin working on more "in depth" treatment goals would not produce the desired results. Knowing the stated reason for admission does not necessarily give the entire picture of what the child might need and further assessment needs to be completed within the first 30 days of placement so that the treatment goals and objectives are timely, accurate, and truly responsive to the needs of the child. (DSS facility)

Response: Clarification should be provided in the manual material.

Recommend changing "72 hours" to "three days" to make the requirement more practical. (DSS Regulators)

Response: The standard was changed as suggested.

Recommend adding "individualized" to this standard as follows: Within three days following admission, individualized objectives and strategies for the first 30 days. . . .” Without this word, facilities may use the same document for all new admissions. (DSS Regulators)

Response: The standard was changed as suggested.

Within 72 hours following admission, objectives and strategies for the first 30 days shall be developed, distributed to affected staff and the resident, and placed in the resident 's record. The objectives and strategies shall be based on the reasons for admitting the resident. The requirements of this section do not apply to secure detention facilities except when a juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice. (DJJ)

Response: Standard was changed as recommended.

22 VAC 42-10-630. Service Plan.

630 C - Quarterly review - currently in MR is every 6 months. Do not think children should be reviewed on any more frequent basis than adults should. To add more intense scrutiny/pressure is to discriminate. (MR Advocacy Group)

Response: The standard was not changed. This is a current standard. Developmentally, the time in a child's life moves more quickly than in an adult's life.

630 C 2 - family involvement - This does not mean or state legal right to choice/agreement with plan. Family consent to treatment needs to be added. Blanket

admission agreement does NOT mean blank agreement to anything proposed. Need stronger consent language. (MR Advocacy Group)

Response: Standard was left unchanged. Family consent to treatment is not necessary because the consent given in the placement agreement or required by virtue of a court order.

B. 3. Recommend adding “objectives” to the sentence: “goals, objectives, and strategies established for the resident”. When developing goals for a child, the plan must also identify the objectives involved in reaching each goal. Strategies are then designed to reach each objective. We also recommend definitions be added for the terms “goals, objectives, and strategies” to help facility staff who frequently tell us they are confused by these terms. (DSS Regulators)

Response: The word objectives was added to the standard. Definitions for the term’s goals, objectives, and strategies were added to the definition section.

Subsection A should be revised to read: "An individualized service plan shall be developed and placed in the resident's record within 30 days following admission and implemented immediately thereafter." (DSS Regulators)

Response: The definition was revised as suggested adding the words and implemented.

Further, this section excludes children in all secure custody from the benefit of an individualized service plan. Yet, children in secure custody need an individualized service plan at least as much as children in other residential settings. The secure custody exclusion, at least for post-adjudicated children, should be deleted from this section. (Law)

Response: The commenter confuses the term secure custody with the term secure detention. Only secure detention is included in the exemption. See next comment.

A. An individualized service plan shall be developed and placed in the resident’s record within 30 days following admission ~~except the requirements of this section do not apply to secure detention facilities~~. Comment: the exemption for secure detention facilities should not apply when a juvenile is placed post-dispositionally in a detention facility, with a suspended commitment to the Department of Juvenile Justice. Suggest adding a new paragraph H clarifying the exemption and its limitations.

8. The requirements of 22 VAC 42-10-630 do not apply to secure detention facilities except when a juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice. (DJJ)

Response: Changes were made as suggested.

22 VAC 42-10-650. Discharge.

Documentation that discharge has been planned and discussed with the parent, legal guardian, child placing agency, and resident: This says plan has been planned and discussed, but does not say parent/guardian are in agreement which would be required by current Olmstead ruling. State may not discharge to less than appropriate setting if family does not agree/consent. (MR Advocacy Group)

Response: This suggestion is not appropriate for all children's residential facilities. The standard does not prohibit seeking parental consent or even requiring parental consent by policy.

F. Does this apply to secure detention? If so, define appropriate. (DJJ Facility)

Response: Standard F does apply to secure detention. "As appropriate" was deleted.

H. Discharge summaries.

1. ~~In lieu of a comprehensive discharge summary, the record of each resident discharged upon receipt of the order of a court of competent jurisdiction shall contain a copy of the court order.~~

2. No later than 30 days after discharge, a comprehensive discharge summary shall be placed in the resident's record and sent to the persons or agency which made the placement. The discharge summary shall review:

- a. services provided to the resident;
- b. resident ' s progress toward meeting service plan objectives;
- c. resident ' s continuing needs and recommendations, if any, for further services and care;
- d. reasons for discharge and names of persons to who resident was discharged;
- e. dates of admission and discharge; and
- f. date the discharge summary was prepared and the signature of the person preparing it.

2. In lieu of a comprehensive discharge summary, the record of each resident discharged upon receipt of the order of a court of competent jurisdiction shall contain a copy of the court order. Comment: Suggest re-ordering numbers 1 and 2, so that the discharge summary is described first, and what is acceptable "in lieu of" the discharge summary is placed later, as is more appropriate for an exception to a general rule. (DJJ)

Response: The standard was changed as suggested.

H. Discharge summaries - Does this apply to secure detention? Does this apply to Post-Dispositional programs? (DJJ Facility)

Response: This standard does not apply to secure detention or to post-dispositional programs.

22 VAC 42-10-670. ~~Counseling and Social Services.~~

Do any of these standards indicated as N/A to secure detention actually apply with respect to the Post-Dispositional program? (DJJ Facility)

Response: Yes, see next comments.

This section excludes all secure custody facilities from requiring facility programs to be designed to provide counseling and social services that address matters including 1) helping the child and parents understand the effects on the child of separation from the family and the effect of group living; 2) assisting the child and family or placing agency to maintain their relationships and prepare for the child's future care; 3) utilizing appropriate community resources to provide services and maintain contacts with those resources; 4) helping the child strengthen his capacity to function productively in interpersonal relationships; and 5) conferring with the child care staff to help them understand the child's needs to promote adjustment to group living. These items are at least as essential to a child in secure custody (especially post-adjudication) as they are to a child in another residential facility. As such, the secure custody exclusion should be deleted.

Response: Secure custody facilities holding children after disposition will be required to provide these services.

Further, § 5.43.6 should be reinstated and added to this section. The provisions of § 5.43.6 address working with the child and the family or placing agency to plan for the child's future and prepare the child for a return home, for independent living, or for other residential care. These provisions are essential to the long-term, continued positive progress of the child and to protecting the safety of the community upon the child's discharge. While 22 VAC 42-10-670 A.2. addresses the child's "future care," it could be interpreted as not covering a child whose lack of a family and/or age makes "independent living" the only alternative. In the alternative, 22 VAC 42-10-670 A.2. should be clarified specifically to include independent living. (Law)

Response: The standard was changed to read as follows:

A. The program of the facility, except a secure detention facility in which juveniles are not confined with a suspended commitment to the Department of Juvenile Justice, shall be designed to provide ~~counseling and~~ social services which address:

1. Helping the resident and the parents or legal guardian to understand the effects on the resident of separation from the family and the effect of group living;
2. Assisting the resident and the family ~~or placing agency~~ to maintain their relationships and prepare for the resident ' s future care;
3. Utilizing appropriate community resources to provide services and maintains contacts with such resources;
4. Helping the resident strengthen his capacity to function productively in interpersonal relationships; and
5. Conferring with the child care staff to help them understand the resident' s needs in order to promote adjustment to group living.
6. Working with the resident and with the family or any placing agency that may be involved in planning for the resident' s future and in preparing the resident for return home or to another family, for independent living, or for other residential care.

C. excepts all secure custody facilities from the requirement that a child receive counseling and social services consistent with the goals of the service plan. Yet, children in secure custody facilities need counseling and social services at least as much as children in other residential settings. This is particularly true with respect to children with mental disabilities. In light of the high number of children committed to DJJ who have prior hospitalizations and/or behavior and emotional disorders, the failure to require this counseling jeopardizes their progress as well as the safety of the community to which the youth will eventually be released.

The secure custody exclusion, at least for post-adjudicated children, should be deleted from this section. And, as stated above, 22 VAC 42-10-630 (service plans) should be amended to delete the secure custody exclusion (or at least to delete the post-adjudication secure custody exclusion) and counseling and social services should be provided to children in those secure custody facilities in accordance with their service plans. (Law)

Response: The standard was changed to include juveniles who are confined in detention with a suspended commitment to the Department of Juvenile Justice.

A. The program of the facility, except a secure detention facility in which juveniles are not confined with a suspended commitment to the Department of Juvenile Justice, shall be designed to provide counseling and social services which address:

1. Helping the resident and the parents or legal guardian to understand the effects on the resident of separation from the family and the effect of group living;
2. Assisting the resident and the family or placing agency to maintain their relationships and prepare for the resident ' s future care;

3. Utilizing appropriate community resources to provide services and maintains contacts with such resources;
4. Helping the resident strengthen his capacity to function productively in interpersonal relationships; and
5. Conferring with the child care staff to help them understand the resident's needs in order to promote adjustment to group living. Comment: the exemption for secure detention facilities was intended to apply when juveniles are held in pre-dispositional detention status, i.e., awaiting a court hearing. If the court has committed the juvenile to the Department of Juvenile Justice but suspended that commitment and placed the juvenile in a local detention home to receive services, the exemption from these requirements is inappropriate.

Response: The standard was changed to include juveniles who are confined in detention with a suspended commitment to the Department of Juvenile Justice.

C. Counseling and social services consistent with the goals of the service plan shall be provided to meet the specific needs of each resident, except residents of secure detention facilities who are not confined with a suspended commitment to the Department of Juvenile Justice, in one of the following ways: Comment: the exemption currently provided for secure detention is not appropriate in the case of longer-term placements under *Code of Virginia* § 16.1-284.1.B, which specifically contemplates "the juvenile's participation in one or more community treatment programs as may be appropriate for the juvenile's rehabilitation." (DJJ)

Response: The standard was changed to include juveniles who are confined in detention with a suspended commitment to the Department of Juvenile Justice.

The term "counseling" was removed from 22 VAC 42-10-670 to avoid confusion with the term "therapy" found in 22 VAC 42-10-680.

22 VAC 42-10-680. Therapy.

Therapy, if provided, shall be provided by ~~a therapist~~ an individual: (i) licensed as a therapist by the Department of Health Professions, or (ii) who is licensure eligible and working under the supervision of a licensed therapist. Comment: the term "therapist" is only here in the entire regulation, and if the substance of the definition of the term is included here, the definition may be deleted. (DJJ)

Response: The standard was changed as suggested.

22 VAC 42-10-700. Health Care Procedures.

Several detention homes expressed their concerns about complying with standard 700 Subsection A, 1, 2, and 3 which would have required:

- A. The facility shall have and implement written procedures for promptly:
1. Assessing the immunization status and administering age appropriate vaccines;
 2. Providing medical and dental services for health problems identified at admission; and
 3. Providing routine ongoing and follow-up medical and dental services after admission.

Among the concerns of the detention home directors were the issues of accessibility of immunization records and the decision to immunize and treat or not. Juveniles in secure detention are only in the temporary custody of the court, which leaves immunization, medical treatment, and dental treatment decisions the responsibility of the parents. Additionally, the standard as written can be interpreted to place the financial responsibility for these services on the detention home.

Other facilities also had concerns about standard 700 A. 1 as they were concerned how they could assess the immunization status of a resident other than asking a parent or guardian.

Response: The standard was changed as follows to clarify the standard:

- A. The facility shall have and implement written procedures for promptly:
1. ~~assessing the immunization status and administering age appropriate vaccines, and~~
 2. providing or arranging for the provision of medical and dental services for health problems identified at admission;
 3. providing or arranging for the provision of routine ongoing and follow-up medical and dental services after admission;

Standard 700 A.1 was deleted as it is covered under 22 VAC 42-10-710. Medical Examinations and Treatment.

Add new standard: The facility shall ensure that residents receive necessary medical care. (DSS Regulators)

Response: This standard is not needed. Standard 22 VAC 42-10-710 B covers this issue.

700. A.1. Recommend re-wording to remove the expectation that facilities are to “administer” age appropriate vaccines. Suggestion: The facility shall have and implement written procedures for promptly assessing the immunization status and ~~administering~~ ensuring that age-appropriate vaccines are administered. (DSS Regulators)

Response: This standard was deleted.

700. B. 5. Is permission necessary for a resident to receive immunizations? If not, we recommend removing this requirement. (DSS Regulators)

Response: Permission is needed for a resident to receive immunization. The standard was not removed.

The facility shall have and implement written procedures for promptly:

1. Assessing the immunization status of each resident and, except in detention facilities that do not confine juveniles with a suspended commitment to the Department of Juvenile Justice, administering age-appropriate vaccines. Comment: the exemption for secure detention facilities was intended to apply when juveniles are held in pre-dispositional detention status, i.e., awaiting a court hearing. If the court has committed the juvenile to the Department of Juvenile Justice but suspended that commitment and placed the juvenile in a local detention home to receive services, the exemption from these requirements is inappropriate. (DJJ)

Response: This standard was deleted.

B. 3. medical insurance company name and policy number or Medicaid number except that this requirement ~~does not apply~~ applies to secure detention facilities only when a resident is confined in detention with a suspended commitment to the Department of Juvenile Justice; Comment: the exemption for secure detention facilities was intended to apply when juveniles are held in pre-dispositional detention status, i.e., awaiting a court hearing. If the court has committed the juvenile to the Department of Juvenile Justice but suspended that commitment and placed the juvenile in a local detention home to receive services, the exemption from these requirements is inappropriate. (DJJ)

Response: The standard was changed to reflect this comment. See next comment.

4. Information concerning:

a. use of medication;

b. medication allergies;

c. any history of substance abuse except that this requirement ~~does not apply~~ applies to secure detention facilities only when a resident is confined in detention with a suspended commitment to the Department of Juvenile Justice; and

Comment: the exemption for secure detention facilities was intended to apply when juveniles are held in pre-dispositional detention status, i.e., awaiting a court hearing. If the court has committed the juvenile to the Department of Juvenile Justice but suspended that commitment and placed the juvenile in a local detention home to receive services, the exemption from these requirements is inappropriate.

Response: Delete “ any history of” and the exception.

d. significant past or present medical problems; and

5. Written permission for emergency medical care, dental care, and obtaining immunizations or a procedure and contacts for obtaining consent except this requirement ~~does not apply~~ applies to secure detention facilities only when a resident is confined in detention with a suspended commitment to the Department of Juvenile Justice.

Comment: the exemption for secure detention facilities was intended to apply when juveniles are held in pre-dispositional detention status, i.e., awaiting a court hearing. If the court has committed the juvenile to the Department of Juvenile Justice but suspended that commitment and placed the juvenile in a local detention home to receive services, the exemption from these requirements is inappropriate. (DJJ)

Response: The exception in 5 was deleted. A subsection 6 stating that 22 VAC 42-22-710 B.3 and 5 do not apply to secure detention except when a juvenile is confined in detention with a suspended commitment to DJJ was added.

22 VAC 42-10-710. Medical Examinations and Treatment.

The proposed standard allows seven days after admission for a child to receive a physical examination. Concern was expressed that a child with a communicable disease could be admitted to a program, and without a physical exam prior to admission, potentially infect other children. (DMHMRSAS Board, DSS Regulators)

Response: The standard was not changed. Residents placed on an emergency basis are required to receive a physical within 30 days of admission. The seven-day window for residents placed on a nonemergency basis seems reasonable. Several facilities stated they were asked to accept residents with few days’ notice and physicals could not be arranged in such a short time.

710. C. 1. Recommend adding back in to the standard the specific requirements for a physical examination. These are currently spelled out in the interpretative material, but this is not enforced. The physical examination should cover specific areas necessary to determine the overall health of the resident. The areas to cover are listed on page V-32 under 5.59.3 of the current standards. (DSS Regulators)

Response: The standard was changed as suggested.

In addition to a physical examination, each child's mental health should be evaluated. Suggested language: "Each child accepted for care shall have a physical and mental health examination by or under the direction of a licensed physician ... (as in the proposed standard) ... (ii) both physical and mental health examinations shall be conducted within

30 days following an emergency admission if reports of physical and mental health evaluations are not available." (Law)

Response: This issue is addressed in the required application material.

B. This subsection should also be amended to include mental health evaluations. Suggested language: "Each resident's record shall include written documentation of (i) the initial physical and mental health evaluations, (ii) annual physical and mental health examinations by a licensed physician, and (iii) follow-up medical care or treatment recommended by the physician or as indicated by the needs of the resident." (Law)

Response: This issue is addressed in the required application material.

A and B- These sections exclude children in a secure custody facility from the requirements of having a physical examination by or under the direction of a licensed physician. Children in secure custody, especially post-adjudication secure custody, need a physical examination at least as much as children in other residential settings. Further, successful treatment and rehabilitation of a child in secure custody, especially post-adjudication secure custody, might not be possible without medical insight into the child's physical health. Thus, the secure custody exclusions, or at least the post-adjudication secure custody exclusions, should be deleted from both of these sections. (Law)

Response: The commenter confuses the terms "secure custody" and secure detention. A definition of "secure detention" has been added. The Department of Juvenile Justice module for detention requires physical exams. Subsection B (iii) was changed to say arrangements made to provide follow-up medical care... The exception for secure detention was taken out. The definition of emergency placement was changed to include placement by court order.

D., E. and G. These sections exclude children in a secure custody facility from protections regarding communicable disease, from dental care, and from ongoing psychiatric or other mental health treatment and reports record keeping. Children (and staff) in secure custody have an even greater need to be protected from communicable diseases because of the close quarters in which they live, are educated, etc. Children in secure custody, especially post-adjudication secure custody, should have dental care and a complete set of psychiatric/mental health treatment records. This is often the only place that many of the children committed to DJJ will have ever received regular health care. For some, that care may be needed to ensure a safe transition back to the community. The secure custody facility exclusion should be deleted from section D, and at least the post-adjudication secure custody exclusion should be deleted from sections E and G. (Law)

Response: The commenter confuses the terms “secure custody” and secure detention. A definition of “secure detention” has been added. See later comment from the Department of Juvenile Justice.

After subsection C, a new section should be added specifying information to be included in the mental health examination report. Suggested language: "Each mental health examination report shall include: 1. information on any psychiatric or mental disorders of the resident; 2. date of the mental health examination; and 3. signature of the licensed physician." (Law)

Response: This information, when applicable to a particular resident, is required by 22 VAC 42-10-710 G.

In addition, a new section should be added to 22 VAC 42-10-710 requiring that "Recommendations for follow-up medical observation and treatment shall be carried out at the recommended intervals." (Law)

Response: This issue is addressed in 22 VAC 42-10-710 B.

A. Each child accepted for care shall have a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to admission to the facility or no later than seven days following admission except: (i) the report of an examination within the preceding 12 months shall be acceptable if a child transfers from one residential facility licensed or certified by a state agency to another, (ii) a physical examination shall be conducted within 30 days following an emergency admission if a report of physical examination is not available, and (iii) this requirement does not apply if a child is admitted to a temporary care facility or to a secure detention facility, unless the juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice ~~or to a temporary care facility~~. Comment: the exemption for secure detention is not appropriate for long-term placements such as are provided for by *Code of Virginia* § 16.1-284.1.B. (DJJ)

Response: Standard was left unchanged.

B. Each resident 's record shall include written documentation of (i) the initial physical examination, (ii) an annual physical examination by a licensed physician, and (iii) follow-up medical care recommended by the physician or as indicated by the needs of the resident. This requirement does not apply to (i) secure detention facilities except when a resident is confined in detention with a suspended commitment to the Department of Juvenile Justice or (ii) temporary care facilities. Comment: the exemption for secure detention is not appropriate for long-term placements such as are provided for by *Code of Virginia* § 16.1-284.1.B. (DJJ)

Response: 22 VAC 42-10-710 B was amended to read:

B. Each resident's record shall include written documentation of (i) the initial physical examination, (ii) an annual physical examination by a licensed physician including any recommendation for follow up care, and (iii) documentation of the provision of follow-up medical care recommended by the physician or as indicated by the needs of the resident. ~~This requirement does not apply to (i) secure detention facilities or (ii) temporary care facilities.~~

D. A child with a communicable disease shall not be admitted unless a licensed physician certifies that:

1. The facility is capable of providing care to the child without jeopardizing residents and staff; and
2. The facility is aware of the required treatment for the child and the procedures to protect residents and staff.

The requirements of this subsection shall not apply to temporary care facilities and secure detention and temporary care facilities except when juveniles are confined in detention with a suspended commitment to the Department of Juvenile Justice. Comment: the exemption for secure detention is not appropriate for long-term placements such as are provided for by *Code of Virginia* § 16.1-284.1.B. (DJJ)

Response: The standard was changed as suggested.

E. Each resident's record shall include written documentation of (i) ~~an annual examination by a licensed dentist and~~ (ii) follow-up dental care recommended by the dentist or as indicated by the needs of the resident and, if the child has been a resident of the facility for 12 months or more, an annual examination by a dentist. This requirement does not apply to (i) secure detention facilities except when juveniles are confined in detention with a suspended commitment to the Department of Juvenile Justice, (ii) temporary care facilities, and (iii) respite care facilities. Comment: Clarify that the facility is responsible for providing an "annual examination" only when the child has been a resident for a year (i.e., the "annual" is to be measured NOT from the child's previous examination, which may have been weeks, months or even years prior to admission, but from the date of admission to the program). (DJJ)

Response: The standard was amended as follows:

E. Each resident's record shall include written documentation of (i) an annual examination by a licensed dentist; and (ii) documentation of follow-up dental care recommended by the dentist or as indicated by the needs of the resident. This requirement does not apply to (i) secure detention facilities, (ii) temporary care facilities, and (iii) respite care facilities.

G. Each resident's record shall include, or document the facility's efforts to obtain, treatment summaries of ongoing psychiatric or other mental health treatment and reports,

if applicable. This requirement ~~does not apply~~ applies to secure detention facilities only when juveniles are confined in detention with a suspended commitment to the Department of Juvenile Justice. Comment: the exemption for secure detention is not appropriate for long-term placements such as are provided for by *Code of Virginia* § 16.1-284.1.B. (DJJ)

Response: The standard was changed as suggested.

22 VAC 42-10-720. Medication.

Add a standard K, which says, “Syringes and other medical implements used for injecting or cutting skin shall be locked. (LC)

Response: The suggested standard was added, as it will provide better protection for residents.

H. Please provide a definition of medication error. Shall the attending physician always be notified or can their agent (FJDC nurses) be notified? (DJJ facility)

Response: A definition of medication error was added. The standard was changed to the following:

H. In the event of a medication error or an adverse drug reaction, first aid shall be administered if indicated. ~~directed by Staff~~ shall promptly contact a poison control center, pharmacist, nurse, or physician and shall take actions as directed. If the situation is not addressed in standing orders, the attending physician shall be notified as soon as possible and the actions taken by staff shall be documented.

Change standard J to say, “ At least one locked unexpired 30 cc bottle of Syrup of Ipecac shall be available on the premises of the facility for use at the direction of the Poison Control Center or physician.” (LC)

Response: The standard was changed to the following at the suggestion of the Poison Control Center:

J. At least one unexpired 30 cc bottle of Syrup of Ipecac and one unexpired container of activated charcoal shall be available on the premises of the facility for use at the direction of the Poison Control Center or physician and shall be kept locked when not in use.

The new requirement, “All staff responsible for medication administration shall have successfully completed a medication training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medications.” is confusing to us. Some orientation programs we are familiar with last 3 hours, while others last 3 days. A preferred standard, in our opinion, might be that, “All facilities must document

orientation training and procedures for medication administration which include [...] the necessary steps and safeguards to ensure careful and accurate distribution of medications.” Our group home is much closer in nature to a Therapeutic Foster Family than a Residential Treatment Facility, and our houseparents medicine administration training should be more in line with that of foster parents than of health care professionals. (DSS facility)

Response: All facilities will be required to provide medication training as outlined in 22 VAC 42-10-720 B.

720. F. and G. Recommend changing the word “delivered” to “administered”. (DSS Regulators)

Response: The standard was changed as suggested to clarify the standard.

Section H appears to require first aid in the event of a medication error or an adverse drug reaction only if directed by a poison control center, pharmacist, nurse, or physician. Certainly, if a child stops breathing or experiences another life-threatening event due to a medication error or an adverse drug reaction, first aid including such interventions as CPR should be administered. The first sentence of section H should be amended to eliminate the conditional restriction on the administration of first aid.

Further, concerning the second sentence of subsection H, the attending physician shall be notified "immediately," not "as soon as possible." (Law)

Response: The standard was changed as follows:

H. In the event of a medication error or an adverse drug reaction, first aid shall be administered if indicated. ~~directed by Staff shall promptly contact~~ a poison control center, pharmacist, nurse, or physician and shall take actions as directed. If the situation is not addressed in standing orders, the attending physician shall be notified as soon as possible and the actions taken by staff shall be documented.

H. In the event of a medication error or an adverse drug reaction, first aid shall be administered ~~if~~ as directed by a poison control center, pharmacist, nurse, or physician. The attending physician shall be notified as soon as possible and the actions taken by staff shall be documented. Comment: current language is awkward; try this amendment. (DJJ)

Proposed: This standard was amended as previously noted.

Proposed Regulation as Currently Reads - The telephone number of a Regional Poison Control Center shall be posted on or next to at least one nonpay telephone in each building in which children sleep or participate in programs.

Proposed Regulation with Additional Language - I. The telephone number of a Regional Poison Control Center shall be posted on or next to all telephones with at least one nonpay telephone in each building in which children sleep or participate in programs. Rationale - This ensures that all phones will have necessary information that could be critical for a child's safety. (DRVD)

Response: The standard was amended as follows as all phones at every facility do not have access to an outside line:

I. The telephone number of a Regional Poison Control Center shall be posted on or next to ~~at least one~~ each non-pay telephone that has access to an outside line in each building in which children sleep or participate in programs.

22 VAC 42-10-730. Nutrition.

E. This standard covers the number of hours between the evening meal and the following day's meal. The wording appears to require facilities to wait 17 hours between these meals on weekends and holidays, although we know this is not the intent. (DSS Regulators, DJJ)

Response: The standard was changed as follows:

E. There shall ~~be no~~ not be more than 15 hours between the evening meal and breakfast the following day ~~except there shall be no more than 17 hours when the facility is operating on a weekend or holiday schedule.~~

F. Facilities shall assure that food is available to residents who wish to eat breakfast before the 15 hours has expired.

Facilities shall receive approval from their regulatory authority if they wish to extend the time between meals on weekends and holidays. There shall never be more than 17 hours between the evening meal and breakfast the following day on weekends and holidays.

22 VAC 42-10-740. Staff Supervision of Children.

Several facilities requested that standard 22 VAC 42-10-740 F.5 be clarified, as they were uncertain to what facilities this new standard would apply.

Response: The standard was amended as follows to provide clarification:

5. Except when exempted by the regulatory authorities programs that are licensed or certified by the Department of Mental Health, Mental Retardation and Substance Abuse Services to provide treatment services for children with diagnosed mental illness or diagnosed severe emotional or behavioral problems where close supervision is indicated

shall have at least one child care staff member awake, on duty and responsible for supervision of every eight children.

The new requirement that programs with mothers and offspring has at least one child care staff member awake and on duty seems excessive. Small programs that offer homelike atmospheres should not be required to have an awake overnight staff. The requirement is more reasonable for larger programs, although I do not believe that it should automatically jump for every six persons. This requirement, given that it is waived in “independent living” programs, is excessive and burdensome and costly with marginal benefit. There is no reasonable basis to believe that the mothers are unable to care for their children. (CSB)

Response: This ratio only applies during awake hours.

740. E. 4. This standard applies to mother/infant programs. We recommend changing “offspring” to “children”. The standards should use words that the general population is familiar with. (DSS Regulators)

Response: The standard was amended as suggested.

740. G. This standard only requires a 1:16 staff/child ratio on the premises when children are asleep. Amend 740. G. as follows: “During the hours that residents are scheduled to sleep there shall be no less than one child care staff member on duty and responsible for supervision of every 16 children, or portion thereof, on the premises. Exception: For programs that accept mothers and their children, there shall be no less than one child care staff member in the building, on duty and responsible for every 10 residents. Rationale: These programs need to assure adequate supervision in case of emergencies involving the young children in the program. (DSS Regulators)

Response: The standard was amended as suggested.

DSS regulators were concerned that the standards regarding ratios of staff to residents as presented in H, I, and J were unclear.

Response: The standard was changed as follows to provide clarification:

H. There shall be at least one childcare staff member ~~awake and~~ on duty and responsible for the supervision of residents in each building where 16 or more children residents are sleeping. When there are sixteen or more residents in a building, the staff person shall remain awake, and the ratio of one staff person to every sixteen residents or portion thereof shall be maintained. For less than sixteen residents in the building, the staff person may sleep but shall be on duty and responsible for supervision. This requirement does not apply to approved independent living programs.

~~I. There shall be at least one childcare staff member awake and on duty on each floor where 30 or more children are sleeping. On each floor where children are sleeping, there shall be at least one childcare staff member awake and on duty for every 30 children or portion thereof.~~

~~J. — There shall be at least one child care staff member awake and on duty on each major wing of each floor where 30 or more children are sleeping~~

D. This language should be strengthened to state: “There shall be at least one trained child care staff member on the premises and on duty supervising children at all times that one or more children are present.” This change is needed because a “responsible adult,” as defined in the proposed standards, is not always going to be in a position to supervise children adequately. (Law)

Response: The standard was changed as suggested.

F. This language should be strengthened to state: “During the hours children are scheduled to be awake there shall be at least one trained child care worker awake, on duty, and charged with responsibility for the care and supervision of every ten children ...” (as in the proposed standard). (Law)

Response: This standard was not changed, as the issue presented in the comment is cover in 22 VAC 42-10-740 F.

No member of the childcare staff shall be on duty more than six consecutive days ~~between rest days~~ without a rest day except in an emergency. Comment: Suggest this is grammatically clearer. It would require a rest day, for example, after the first six days on the job, or after the first six days back from vacation or sick leave. (DJJ)

Response: The standard was changed as suggested.

22 VAC 42-10-750. Emergency Telephone Numbers.

A. Residents who are away from the facility and the adults responsible for their care during the absence shall be furnished with a telephone number where a responsible facility staff member or other responsible adult may be reached at all times. This requirement does not apply to residents of secure detention facilities. Comment: detention facility staffs who are responsible for residents who are away from the facility should have appropriate telephone numbers available. (DJJ)

Response: The standard was amended as suggested.

22 VAC 42-10-760. Children’s Privacy.

Children shall be provided privacy from routine sight supervision by staff members of the opposite gender while bathing, dressing, or conducting toileting activities. This requirement does not apply to medical personnel performing medical procedures, to staff providing assistance to infants, or to staff providing assistance to children whose physical or mental disabilities dictate the need for assistance with these activities as justified in the client's record, or to juvenile correctional centers. Comment: Security considerations, coupled with the fact that there are no gender-based bona fide occupational qualifications for staff who supervise residents in juvenile correctional facilities, requires that sight supervision by staff of the opposite gender be permitted in these facilities. (DJJ)

Response: To provide for the greatest possible protection of residents and staff, the standard was not changed.

22 VAC 42-10-770. Searches.

C. A facility that conducts pat downs shall develop and implement written policies and procedures governing them which shall provide that:

1. Pat downs shall be limited to instances where they are necessary to prohibit contraband;

2. Pat downs shall be conducted only ~~in the specific circumstances listed in accordance with~~ the written policies and procedures. Comment: In secure custody facilities, it is necessary to permit random pat downs; the language requiring "specific circumstances" has caused confusion as to whether random pat downs are permitted. The proposed amendment should eliminate this confusion while preserving the intended requirement that pat downs not be conducted arbitrarily or capriciously.

Response: The standard was amended as suggested.

3. Pat downs shall be conducted by personnel of the same gender as the client being searched, except that this requirement shall not apply to juvenile correctional centers. Comment: Security considerations, coupled with the fact that there are no gender-based bona fide occupational qualifications for staff who supervise residents in juvenile correctional facilities, requires that pat downs conducted by staff of the opposite gender be permitted in these facilities.

Response: To provide for the greatest possible protection of residents and staff, the standard was not changed.

4. pat downs shall be conducted only by personnel who are specifically authorized to conduct searches by the written policies and procedures; and

5. ~~The client's privacy~~ pat downs shall be ensured conducted in such a way as to protect the subject's dignity and in the presence of one or more witnesses to protect

against allegations of impropriety. Comment: During a pat down, the subject is fully clothed. There is little apparent need to protect the subject's privacy. On the contrary, it may be desirable to conduct the pat down in as public a setting as possible, to guard against unfounded allegations of inappropriate touching by the searcher. (DJJ)

Response: The standard was amended as suggested except “to protect against allegations of impropriety” was excluded.

22 VAC 42-10-780. Management of Resident Behavior.

The first sentence of this section requires the implementation of written policies/procedures for "documenting and monitoring management of resident behavior." While this is important, it is not complete. This section should also contain the equivalent of the first sentence of current § 5.86 that requires "written policies and procedures governing management of resident behavior." (Law)

Response: The standard was amended as follows:

A. The facility shall have and implement written policies and procedures for behavior management and for documenting and monitoring the management of resident behavior. Rules of conduct, if any, shall be included in the written policies and procedures.

B.3.a and C.2.a These subsections exclude legal guardians of children in secure custody facilities from receiving written information concerning management of resident behavior and from receiving substantive revisions to policies governing management of resident behavior. There is no reason to exclude parents/legal guardians of children in secure custody facilities from receiving this information, while there is good reason to ensure that parents/legal guardians receive this information. For example, giving this information to parents/legal guardians will enable them to work with their children on appropriate behavior and compliance with facility rules. This interaction will, in turn, foster closer bonds between child and parent/legal guardian that benefit the child, parent, and family in the short and long terms. On the other hand, excluding parents/legal guardians from receiving this information might foster a mistaken notion that parents/legal guardians do not play and are not expected to play important roles in the lives of children who are alleged to be delinquent or who have been found to be delinquent. This, of course, is far from the truth and may, in fact, contribute to further delinquent behavior.

The secure custody exclusions in both these subsections should be deleted. (Law)

Response: The commenter confuses secure custody and secure detention. See definitions.

B3. to legal guardians within 72 hours following the resident's admission except that this requirement does not apply:

a. to secure detention facilities except when a juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice; Comment: the exemption for secure detention is appropriate for pre-dispositionally placed youth, and for short-term post-dispositionally placed youth; however, when a juvenile is ordered confined in a local detention home for up to 180 days with a suspended commitment to the Department of Juvenile Justice, it is appropriate to require that legal guardians be given the same kind of information concerning management of resident behavior as is required of other long-term placements. (DJJ)

Response: The standard was amended as suggested.

Proposed Regulation with Additional Language

E. Difficult behaviors should be addressed using functional behavior assessments and positive behavioral supports when appropriate. All behavioral interventions should be documented.

Rationale: There is no mention of the current first line approach to behavioral interventions, which is the functional behavioral assessment and positive behavioral supports. This should appear in the regulation as an alternative to chemical and physical restraint methods. (DRVD)

Response: The new behavior management definition can guide facilities. Each facility has the flexibility to implement behavioral interventions appropriate to the program. Documentation is required in 22 VAC 42-10-780 A.

22 VAC 42-10-790. Confinement.

Several commenters suggested that the time to check on the resident in confinement be changed and that the requirement of the check be changed. (Law, DJJ, DRVD)

Response: The standard was changed as follows:

D. Staff shall check on the resident in the room at least every 30 minutes and more often depending on the nature of the resident's disability, condition and behavior.

E. Use of confinement and staff checks on the residents shall be documented when confinement is used for managing resident behavior.

22 VAC 42-10-800. Prohibitions.

Subsection 11 (i) and (ii) permit the use of "sound, electricity, heat, cold, light, water, noise, ... hot pepper, pepper sauce, and pepper spray" in duration and intensities that would be noxious or painful to a person, including a child. Neither is appropriate.

Subsection 11 (i) is vague -- an "intrusive aversive therapy plan" "approved" by whom? Subsection 11 (ii) permits the destruction of any sort of a therapeutic environment in a secure custody facility by permitting staff to cause discomfort, pain, or possibly death to a child in their care. Subsection 11 should be amended by deleting every word after "stimuli." (Law)

Response: The standard was amended as follows to provide clarification:

The following actions are prohibited:

1. Deprivation of drinking water or food necessary to meet a resident's daily nutritional needs except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;
2. Limitation on contacts and visits with attorney, probation officer, regulators or placing agency representative;
3. Bans on contacts and visits with family or legal guardians except as permitted by other applicable state regulations or by order of a court of competent jurisdiction;
4. Delay or withholding of incoming or outgoing mail except as permitted by other applicable state and federal regulations or by order of a court of competent jurisdiction;
5. Any action which is humiliating, degrading, or abusive;
6. Corporal punishment;
7. Subjection to unsanitary living conditions;
8. Deprivation of opportunities for bathing or access to toilet facilities except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;
9. Deprivation of health care;
10. Deprivation of appropriate services and treatment;
11. Application of aversive stimuli except as permitted pursuant to other applicable state regulations: ~~(i) as part of an approved intrusive aversive therapy plan, or (ii) as a means of controlling violent behavior in a secure custody facility;~~
12. Administration of laxatives, enemas, or emetics except as ordered by a licensed physician or poison control center for a legitimate medical purpose and documented in the resident's record;
13. Deprivation of opportunities for sleep or rest except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record; and
14. Limitation on contacts and visits with advocates employed by the Department of Mental Health, Mental Retardation and Substance Abuse Services or the Department for Rights of Virginians with Disabilities.

A new prohibition should be added: "15. issuing or failing to replace clothing or shoes of an improper size." This prohibition is needed because children have reported being issued clothing or shoes in an improper size while in a juvenile correctional center. This practice is unhealthy, demeaning, and may be used as an inappropriate way to exert dominance or control over children. (Law)

Response: This issue is already covered in 22 VAC 42-10- 890.

22 VAC 42-10-820. Physical Restraints.

Regulation As Currently Reads

E. Each staff member responsible for supervision of children shall receive basic orientation to the facility's physical restraint procedures and techniques to less intrusive interventions:

1. Within seven days following employment, and
2. Prior to working alone while supervising one or more residents.

Proposed Regulation with Additional Language

E. Each staff member responsible for supervision of children shall receive basic orientation to the facility's physical restraint procedures and techniques to less intrusive interventions prior to working with children.

1. Within seven days following employment, and
2. Prior to working alone while supervising one or more residents.

Rationale: Without this training, it would be improper and dangerous to have staff working with children even under another's supervision. (DVRD)

Response: The standard was changed to require that staff receive training in the restraint procedures and techniques before staff can use restraint on a resident. The first seven days allows for on the job training where staff can learn the needs of the residents and appropriate interactions by working with trained staff. The standard prohibits the use of physical restraint until training is completed.

F.2. should be clarified to ensure that at least one staff member supervising every child has received basic orientation in the facility's physical restraint procedures and techniques and in less intrusive interventions. (Law)

Response: The standard was amended to provide clarification as follows:

F. each staff member responsible for supervision of children shall receive basic orientation to the facility's physical restraint procedures and techniques and to less intrusive interventions:—~~1. within seven days following employment, and~~

1. Physical restraint shall be applied only by staff who have been trained in the facility's physical restraint procedures and techniques.

2. ~~Prior to working alone while supervising one or more residents.~~ Staff shall review the facility's training in physical restraint and less intrusive interventions at least annually.

22 VAC 42-10-870. Recreation.

The proposed standards add a secure custody facilities exemption to the requirement that recreation programs include free time for residents to pursue personal interests in addition to the formal recreation program. The developmental needs of children in secure custody facilities are the same as children in other settings, and children in secure custody could benefit greatly from the opportunity to pursue an area of particular personal interest. This new exemption should be deleted. (Law)

Response: Unstructured free time leads to opportunities for disruptive behaviors.

22 VAC 42-10-880. Community Relationships.

The requirement for a written procedure for community relationships also seems to add little value and to be largely bureaucratic. While every activity for the resident should be part of a rational plan of services, there does not seem to be a special need for the written community relationships procedures. (CSB)

Response: The standard was amended as suggested in the next comment.

We recommend that subsection “B” is clarified. It is not clear what “community interest” and “efforts on their behalf” mean.

B. The facility shall have and implement written procedures for evaluating ~~community interest in residents~~ persons or organizations in the community who wish to associate with residents on the premises or take residents off the premises. and efforts on their behalf to determine whether The procedures shall cover how the facility will determine if participation in such community activities or programs would be in the resident’s best interest. (DSS Regulators)

Response: The standard was amended as suggested.

22 VAC 42-10-890. Clothing.

The proposed standards add another secure custody facility exemption to the requirement that clothes and shoes be similar in style to those generally worn by similar children in the community. This exclusion is ill advised, as it opens the door to requiring children in secure custody to wear stereotypical prison garb. Children tend to live up to the expectations placed on them by the adults who supervise them. If children are dressed to look like convicted criminals, they may conform their behavior to that of convicted criminals. The secure custody exclusion should be deleted. (Law)

Response: The standard was not changed as suggested due to the need to control contraband, eliminate the use of personal clothing in bartering and gambling, and control theft. The facility is better able to ensure that all residents remain on the same status level with facility issued clothing.

Each resident's clothing shall be inventoried and reviewed at regular intervals. Comment: this provision re-instates a portion of current CORE Standard 5.124. The intent of reinstating this provision is to reduce pilfering and theft of juvenile's clothing (DJJ)

Response: This standard is not needed. Facilities can add these requirements in their own policies and procedures without regulation.

22 VAC 42-10-910. Work and Employment.

Please clarify issue of chores assigned in accordance with service plan of resident. (regulated facility)

Response: This issue can be clarified in manual material.

22 VAC 42-10-920. Visitation at the Facility and to the Resident's Home.

It was asked that the standard related to the distribution of visitation policies be changed to one that requires the policies to be posted so those parents may view them at the facility. (DSS Board)

Response: This standard was amended to require facilities, except for secure detention unless a juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice and emergency shelters, to give visitation policies to parents at the time of admission or to mail them to the parents within 24 hours of the resident's placement.

B. the words "upon request" should be replaced by "upon resident's admission to facility." Some parents, legal guardians, residents, and other interested people important to the residents may have a mistaken understanding about who may visit a child and how visitation is conducted. Included in the misunderstanding might be a failure to recognize that visitation is even possible. In those situations, the written visitation policies and procedures might never be requested and important relationships might die while the child is in a residential facility.

Thus, the new standards should incorporate a provision requiring the distribution of written visitation policies and procedures to parents and guardians no later than the time of admission or within 12 hours after admission if the parent and/or guardian did not participate in the admissions process. A parent whose parental rights have not been

terminated or whose visitation rights have not been limited by court order is entitled to a copy of the written visitation policies and procedures in accordance with this regulation. If the child's legal guardian is not the parent, the legal guardian is entitled to separate notification. (Law?)

Response: This standard was amended to require facilities, except for secure detention unless a juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice and emergency shelters, to give visitation policies to parents at the time of admission or to mail them to the parents within 24 hours of the resident's placement.

Proposed Regulation As Currently Reads

B. Written visitation policies and procedures shall be provided upon request to parents, legal guardians, residents, and other interested persons important to the residents.

Proposed Regulation with Additional Language

B. Written visitation policies and procedures shall be provided upon request to parents, legal guardians, and residents. It shall be provided to other interested persons important to the residents upon request.

Rationale: It has been the policy to provide this information before without a request and when a child is in a residential facility it is critical that all rights are given to them and their parents or legal guardians at the outset. (DRVD)

Response: This standard was amended to require facilities, except for secure detention unless a juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice and emergency shelters, to give visitation policies to parents at the time of admission or to mail them to the parents within 24 hours of the resident's placement.

22 VAC 42-10-930. Vehicles and Power Equipment.

930 A - mandated vehicle checks and head counts would save lives. Reference July District of Columbia case of MR individual found dead inside van. Documented cases of hypothermia occur in all seasons. (MR Advocacy Group)

Response: The standard was amended as follows:

B. There shall be written safety rules, which shall include taking head counts at each stop, which are appropriate to the population served, for transportation of children.

22 VAC 42-10-950. Emergency Reports.

Proposed Regulation As Currently Reads

A. Any serious incident, accident or injury to the resident; any overnight absence from the facility without permission; any runaway; and any other unexplained absence shall be reported within 24-hours: (i) to the placing agency, (ii) to either the parent or legal guardian, and (iii) noted in the resident's record.

Proposed Regulation with Additional Language

A. Any serious incident, accident or injury to the resident; any overnight absence from the facility without permission; any runaway; and any other unexplained absence shall be reported within 24-hours immediately and in no case later than the close of business on the date of discovery of the incident: (i) to the placing agency, (ii) to either the parent or legal guardian, and (iii) noted in the resident's record.

Rationale: These are serious situations in which parents and guardians should be notified of immediately. Having a child in a residential facility does not separate family bonds and these types of incidents are of significant importance to the family. (DRVD)

Response: The standard was amended as follows:

A. Any serious incident, accident or injury to the resident; any overnight absence from the facility without permission; any runaway; and any other unexplained absence shall be reported within 24-hours: (i) to the placing agency, (ii) to either the parent or legal guardian, or both, as appropriate, and (iii) noted in the resident's record.

22 VAC 42-10-960. Suspected Child Abuse or Neglect.

Two regulated facilities wanted the definition of immediately clarified.

Response: A definition of immediately was added to the definition section. The term "immediately" was deleted from 22 VAC 42-10-960 B (formerly A).

Two commenters were also unclear when to report child abuse situations to the parents of residents.

Response: The standard was amended to clarify the standard as follows:

B. Any case of suspected child abuse or neglect ~~which is related to the~~ occurring at the facility, on a facility-sponsored event or excursion, or involving facility staff shall be reported immediately: (i) to the regulatory authority and placing agency, and (ii) to either the resident's parent or legal guardian, or both, as appropriate.

We recommend moving the requirements related to policies and procedures for child abuse and neglect (22 VAC 42-10-220. C.) into this section. This keeps related subjects together. (DSS Regulators)

Response: These standards were moved as suggested.

22 VAC 42-10-970. Emergency Procedures.

D. Are we to review severe weather, loss of utilities, missing persons, severe injury, code blue, fire emergency evacuation, etc. with resident? (DJJ facility)

Response: Yes, this in the intent of the standard.

F. Should we be doing all types of drills (see D)? (DJJ Facility)

Response: The standard was amended. The term emergency drill was replaced with evacuation drill throughout the standard. Facilities will be responsible for conducting evacuation drills.

A. Written procedures shall be developed and implemented for responding to emergencies including, but not necessarily limited to:

1. Severe weather;
 2. Loss of utilities;
 3. Missing persons;
 4. Severe injury; ~~and~~ emergency evacuation, including alternate housing, and fire.
- Comment: adding #6 eliminates need for 22 VAC 42-10-980.A. (DJJ)

Response: The standard was not amended as suggested.

D. the procedures for responding to emergencies and the responsibilities reflected in the emergency procedures identified therein shall be communicated to all residents within seven days following admission or a substantive change in the procedures. Comment: Section D covers the requirement of Section N. If #6 is added at A., eliminates need for 22 VAC 42-10-980.B. (DJJ)

Response: The standard was not amended as suggested. The heading was changed to include Emergency and Evacuation Procedures to clarify.

~~Emergency procedures shall be communicated to each resident, as appropriate.~~

Comment: Section D covers the requirement of Section N. (DJJ)

Response: The standard was not amended as suggested. The heading was changed to include Emergency and Evacuation Procedures to clarify.

179. ~~22 VAC 42-10-990. Written Fire Plan.~~

~~A. The facility shall develop a written plan to be implemented in case of a fire.~~
Comment. Delete as separate standard if #6 is added at 22 VAC 42-10-960.

~~B. Procedures and responsibilities reflected in the written fire plan shall be communicated to all residents within seven days following admission or a substantive~~

~~change in the plan.~~ Comment: Delete as separate standard if #6 is added at 22 VAC 42-10-960.

~~C. The telephone number of the fire department to be called in case of fire shall be prominently posted on or next to each telephone.~~ Comment. Delete as separate standard if #6 is added at 22 VAC 42-10-960, this requirement is covered by 22 VAC 42-10-960.E. (DJJ)

Response: The standard was not amended as suggested. The heading was changed to include Emergency and Evacuation Procedures to clarify.

180. Add a standard which says, “If a facility permits staff to take residents to the staff’s home the facility must receive written permission of the legal guardian or placing agency before the visit occurs.” Interpretive material should state, “Facilities who allow staff to take children to the staff’s home for a visit should consider the liability issues with the policy and should consider consulting their attorneys before the policy is implemented. Should the visitation become a regular occurrence or for an extended duration, a home study must be completed for the staff person by a local DSS or a licensed child-placing agency. Also see standard 660.” (LC)

Response: 22 VAC 42-10-925. Resident Visitation at the Homes of Staff. was added to the regulation.

Add a general standard to cite if a facility is not following their own policies and procedures. The word implement in several standards that say a policy must be developed and implemented is not a strong enough word - they can implement a policy, but then not keep following the policy. The word implement is open to interpretation. There should be no guessing. (Regulator)

Response: This standard was not added, as it is not necessary. Implement means to carry out. Programs would be cited under individual standards where procedures are not implemented. This will be clarified in the compliance material.

We recommend new standards to require facilities to have grievance procedures for residents. The following proposed language is taken from Delaware's regulation.

The licensee shall develop, adopt, follow and maintain on file written policies and procedures governing the handling of grievance by children. The policies and procedures shall:

Be written in clear and simple language;

Be communicated to the residents in an age or developmentally appropriate manner;

Be posted in an area easily accessible to residents and their parents and legal guardian;

Ensure that any grievance shall be investigated by an objective employee who is not the subject of the grievance; and

Require continuous monitoring by the licensee of any grievance to assure there is no retaliation or threat of retaliation against the child. (DSS Regulators)

Response: 22 VAC 42-10-965. Grievance Procedures. was added to the regulation.

The following are the substantial changes made to the regulation:

- In the definition section terms not used in the regulation were deleted and terms used in the regulation were added. Behavior management, compliance plan, confined in detention with a suspended commitment to the Department of Juvenile Justice, detention home or secure detention, good character and reputation, goal, juvenile correctional center, licensee, medication error, objective, and strategy were added. Documented violation, management of resident behavior, professional child and family service worker, regulant, review, reviewer, substantial compliance, systemic, team, and therapist were deleted. **22 VAC 42-10**
- Sections containing standards regarding the legal base for the standards, the Interdepartmental Agreement, Preapplication Consultation, Application Forms, Investigation, and Visitation of Facilities that are found in the current standards were reinstated. **22 VAC 42-11, 22 VAC 42-12, 22 VAC 42-13, 22 VAC 42-14, 22 VAC 42-21, 22 VAC 42-22**
- The right to appeal and the appeal process were added to standards as required elements when the facility is notified when denial or revocation of a license or certificate is recommended. **22 VAC 42-10-70 and 22 VAC 42-10-80**
- A standard was added which authorizes the Departments of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services to investigate complaints and allegations at facilities where they have regulatory authority. **22 VAC 42-10-95**
- The term regulant was replaced in favor of the term licensee. **22 VAC 42-10-110**
- A new standard requiring facilities to write an annual report on the facility's effectiveness in meeting its objectives was replaced with standards requiring facilities to annually review the program of the facility and to review, develop and implement programs and administrative changes in accord with the purpose of the facility. **22 VAC 42-10-110**
- The standard requiring that funds be spent for the purpose they were collected was deleted. **22 VAC 42-10-120**
- Requirements that a facility develop a staff training plan and that regular supervision will not be the only method of staff development were added. **22 VAC 42-10-240**
- Standards regarding heating, ventilation, and cooling systems were added back to the standards. **22 VAC 42-10-335**

- The prohibition regarding smoking in sleeping areas was broadened to prohibiting smoking in living areas and where residents participate in programs.
22 VAC 42-10-385
- An exception was added to allow secure custody facilities to have an observation window in a door to a room used as a sleeping area. **22 VAC 42-10-390**
- Standards were added to the primitive campsite section to clarify issues related only to camping programs. **22 VAC 42-10-510**
- A requirement was added that all correspondence and documents received by the facility should be maintained in the resident's record. **22 VAC 42-10-540**
- A requirement was added that facilities using automated records should have procedures to back up records. **22 VAC 42-10-540**
- Requirements for the face sheet were revised. **22 VAC 42-10-610**
- In several standards the exception for secure detention was changed to require secure detention to follow the standard if a resident was confined in detention with a suspended commitment to the Department of Juvenile Justice. **22 VAC 42-10-620, 22 VAC 42-10-630, 22 VAC 42-10-670, 22 VAC 42-10-700, 22 VAC 42-10-710, 22 VAC 42-10-780**
- A requirement was added that the program of the facility shall be designed to provide social services which address working with the resident and with the family or any placing agency that may be involved in planning for the resident's future.
22 VAC 42-10-670
- The requirement that a facility implement procedures for promptly assessing the immunization status and administering age appropriate vaccines was deleted.
22 VAC 42-10-700
- Elements to be included in a physical exam report were added. **22 VAC 42-10-710**
- The requirement to have the number of the poison control center on one telephone was changed to require the number on all telephones with an outside line where children sleep or participate in programs. **22 VAC 42-10-720**
- In addition to requiring a bottle of syrup of ipecac, a container of activated charcoal will also be required. **22 VAC 42-10-720**

- A requirement to keep syringes and other medical implements used for cutting or injecting the skin locked was added. **22 VAC 42-10-720**
- A requirement was added that staff must check on residents in confinement more often than every 30 minutes depending on the nature of the resident's disability, condition and behavior. **22 VAC 42-10-790**
- A requirement to document staff checks on residents in confinement was added. **22 VAC 42-10-790**
- A requirement for the facility to review the facility's physical restraint training with staff responsible for the supervision of children annually was added. **22 VAC 42-10-820**
- A standard was reinstated from the current standards requiring a facility to contact the superintendent of public schools in the locality when a child with disabilities is placed in the facility without the knowledge of school division personnel in the resident's home locality. **22 VAC 42-10-850**
- A standard was reinstated to require facilities, except temporary care facilities and secure detention unless the juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice, to make visitation policies and procedures available to parents, legal guardians, the resident, and other interested persons important to the resident no later than the time of admission. When parents or legal guardians do not participate in the admission process, visitation policies and procedures will be mailed to them within 24 hours. **22 VAC 42-10-920**
- For facilities that allow staff to take residents to the staff's home, a requirement was added that the facility must receive written permission from the resident's legal guardian or placing agency before the visit occurs. **22 VAC 42-10-925**
- A requirement that taking head counts at each stop shall be included in the written safety rules for the transportation of children was added. **22 VAC 42-10-930**

A requirement to develop and implement a grievance procedure for residents was added. 22 VAC 42-10-965

Statement of Final Agency Action

On November 18, 1999, The Boards of the Department of Education and the Department of Mental Health, Mental Retardation and Substance Abuse Services approved a final regulation entitled “Interdepartmental Regulations for Children’s Residential Facilities.”

On December 8, 1999, the Board of the Department of Social Services approved the same regulation.

On January 5, 2000, the Board of the Department of Juvenile Justice approved the regulation.