



Final Regulation Agency Background Document

Agency name	Department (Board) of Juvenile Justice
Virginia Administrative Code (VAC) citation	6VAC35-41
Regulation title	REGULATION GOVERNING JUVENILE GROUP HOMES AND HALFWAY HOUSES
Action title	Comprehensive review of all regulatory provisions governing juvenile group homes and halfway houses that are currently contained in 6VAC35-51 and 6VAC35-140. Combines and streamlines the regulations into a single regulation (proposed 6VAC35-41).
Date this document prepared	January 12, 2012

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

This action (1) combines all regulatory requirements relating to juvenile group homes and halfway houses currently contained in (i) the Standards for Juvenile Residential Facilities (6VAC35-140) and (ii) the Standards for the Interim Regulation of Children's Residential Facilities (6VAC35-51) into one regulation and (2) includes a comprehensive review of all regulatory requirements for juvenile group homes and halfway houses. The proposed regulation has sections for: (1) general provisions; (2) administration and personnel; (3) physical environment; (4) safety and security; (5) residents' rights; (6) program operation; (7) work programs; (8) health care services; and (9) behavior management. Facility specific parts are also included; i.e., independent living or wilderness programs.

The recommended changes since the proposed stage are in response to the public comment received. The majority of the changes relate to the adoption of requirements pertaining to the department's zero-tolerance policy regarding abuse in the training and residents' rights sections. Other amendments relate to

the reporting of serious incidents and suspected child abuse and neglect, staff and volunteer training and retraining, searches of residents, and residents' rights.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On June 9, 2010, the Board of Juvenile Justice authorized the advancement of the Regulation Governing Juvenile Group Homes and Halfway Houses, 6VAC35-41, as amended, to the Final Stage of the regulatory process.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Section 16.1-309.9 of the Code of Virginia requires the board to "develop, promulgate and approve standards" for the operation and evaluation of facilities authorized by the Virginia Juvenile Community Crime Control Act (Article 12.1 of Title 16.1 of the Code of Virginia), which includes group homes that receive funding through this Act.

Section 66-24 of the Code of Virginia establishes the board as the licensing agency for "group homes or residential facilities providing care of juveniles in direct state care" and requires the board to "promulgate regulations for licensure or certification of community group homes or other residential care facilities that contract with or are rented for the care of juveniles in direct state care." This section also requires specific provisions as follows:

The Board's regulations shall address the services required to be provided in such facilities as it may deem appropriate to ensure the welfare and safety of the juveniles. In addition, the Board's regulations shall include, but need not be limited to (i) specifications for the structure and accommodations of such facilities according to the needs of the juveniles to be placed in the home or facility; (ii) rules concerning allowable activities, local government- and group home- or residential care facility-imposed curfews, and study, recreational, and bedtime hours; and (iii) a requirement that each home or facility have a community liaison who shall be responsible for facilitating cooperative relationships with the neighbors, the school system, local law enforcement, local government officials, and the community at large.

Additionally, the board is entrusted with general authority to promulgate regulations by § 66-10 of the Code of Virginia, which states the board may "promulgate such regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by the Director or the Department."

The promulgating entity is the Board of Juvenile Justice.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The Board of Juvenile Justice regulates three distinct types of facilities: (1) juvenile correctional centers; (2) detention centers; and (3) group homes/halfway houses. At present, these facilities are regulated by the board and are governed by two separate regulations: (1) the Standards for Juvenile Residential Facilities (6VAC35-140) and (2) the Standards for the Interim Regulation of Children's Residential Facilities (6VAC35-51).

The department has had several ideations of regulations governing the residential facilities regulated by the board. Earlier, the department had five separate regulations governing secure detention homes, post-dispositional confinement in secure detention, pre- and post-dispositional group homes, and juvenile correctional centers. These regulations applied to the facilities in conjunction with the Standards for the Interdepartmental Regulation of Children's Residential Facilities (the "CORE" regulation), which went into effect in 1981.

The Board of Juvenile Justice's Standards for Juvenile Residential Facilities (6VAC35-140) was promulgated by the board, was most recently reviewed and revised in May 2005, and consists of the board's regulations for all facilities it regulates. This regulation establishes the minimum standards for residential facilities in the Commonwealth's juvenile justice system and covers program operations, health care, personnel, facility safety, and physical environment. It contains additional provisions for secure custody facilities, boot camps, work camps, juvenile industries, and independent living programs.

The Standards for the Interim Regulation of Children's Residential Facilities (6VAC35-51) is a reenactment of the "CORE" regulation in its entirety as a board regulation. This regulation was adopted by the board in September 2008 in order to comply with the requirements of Chapter 873 of the 2008 Acts of the General Assembly, which mandated the repeal of the "CORE" regulation and action to be taken by the affected boards by October 31, 2009. This regulation has more expansive provisions than 6VAC35-140 and also contains minimum requirements for the different facilities regulated by the board.

Throughout the years, problems have been identified in implementing the requirements contained in these two separate regulations, given the distinct nature of the three types of facilities regulated by the board. Accordingly, the board has approved consolidating the current regulatory requirements for residential programs and separating them into separate regulations governing (1) juvenile correctional centers; (2) detention centers; and (3) group homes/halfway houses. This revamping of the regulatory scheme was done in conjunction with a comprehensive review of the current provisions. This review was done with the goals of enhancing the clarity of the regulatory requirements and achieving improvements that are reasonable, prudent, and will not impose an unnecessary burden on its regulants or the public.

Having clear, concise regulations is essential to protecting the health, safety, and welfare of residents in juvenile group homes and halfway houses and citizens in the community. With clear expectations for the administrators running these facilities, they will be able to run the facilities more smoothly and can utilize any extra resources for supporting the needs of the residents, thus supporting the overall rehabilitation and community safety goals of the department.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

The primary intent of this regulatory overhaul is to reduce confusion in applying the regulatory requirements in each type of facility regulated by the board (juvenile correctional centers, secure detention centers, and group homes/halfway houses). Each provision was reviewed as to whether it was (1) appropriate for the type of facility; (2) clear in its intent and effect; and (3) necessary for the proper management of the facility. Amendments were made to accommodate the juvenile group homes' and halfway houses' specific needs and to enhance program and service requirements to best provide for the residents.

The following is a summary of the changes made to the regulation since the proposed stage:

- Serious incident reports (6VAC35-41-90):
 - Add a requirement that the parents of all residents be notified if an incident at the facility occurs involving a resident's death (provided such notice does not violate confidentiality requirements or interfere with any investigation or prosecution).
 - Add a requirement that the notice to the parent, department director, and court service unit (CSU) occur without undue delay.
- Suspected child abuse and neglect (6VAC35-41-100): Add a requirement that procedures include "measures to be taken to ensure the safety of the resident and staff" when child abuse or neglect is suspected.
- Reporting criminal activity (6VAC35-41-105): Add clarifying language that such reporting includes any physical abuse, sexual abuse, or sexual harassment.
- Required initial training (6VAC35-41-200): Amend the required initial training requirements to clarify that such training must include the actions that are prohibited in facilities; i.e., abuse, discrimination, unsanitary living conditions, denial of health care.
- Retraining (6VAC35-41-210): Amend the required initial training requirements to clarify that such training must include the actions that are prohibited in facilities; i.e., abuse, discrimination, unsanitary living conditions, denial of health care.
- Volunteer and intern orientation and training (6VAC35-41-300): Add a requirement that training include the actions prohibited in facilities; i.e., abuse, discrimination, unsanitary living conditions, denial of health care.
- Personnel records (6VAC35-41-310): Change the requirement that the records include "written references or notations of oral references" to "documentation of reference checks."
- Resident records (6VAC35-41-330): Delete the "resident" to ensure that confidentiality provisions apply to "all" records as stated therein.
- Toilet facilities (6VAC35-41-400): Remove duplicative language provided in subsection A.

- Disposal of garbage and management of hazardous materials (6VAC35-41-430): Add medical waste as materials that must be stored, used, and disposed of in appropriate receptacles in accordance with applicable federal, state, and local requirements.
- Searches of residents (6VAC35-41-510): Add requirement that all patdown and frisk searches must be conducted by staff of the same sex of the resident being searched, except in emergencies.
- Weapons (6VAC35-41-540): Amend to ensure a list of weapons does not preclude inclusion of other prohibited weapons; i.e., tasers and stun guns.
- Prohibited actions (6VAC35-41-560):
 - Add clarifying language that any form of "physical abuse, sexual abuse, or sexual harassment are prohibited."
 - Remove "involuntary" before "use of pharmacological restraints" as unnecessary language because use of any pharmacological restraint is prohibited. (Note: This does not include PRN or prescribed psychotropic medications.)
 - Remove the "physical" before "disability" describing a class where discrimination is prohibited.
 - Include a prohibition against discrimination on the basis of sexual orientation.*
 - Remove "involuntary" before "placement of a resident alone in a locked room or a secured area" as any placement in a locked room is prohibited in group homes.
* NOTE: The language in subdivision 16 has changed since originally approved by the Board, after first approved by the Board in June 2010, through the Executive Branch Review, it was determined that the proposed language exceeding the Board's rulemaking authority. On January 10, 2012, the Board approved alternative language. The alternative language is in the proposed draft.
- Contact with attorneys, courts, and law enforcement (6VAC35-41-600): Delete second sentence in subsection A that defines "legal representative" as this is more appropriately contained in facility procedures.
- Personal necessities and hygiene (6VAC35-41-610): Add statement that linens should be cleaned more frequently than every seven days, if needed.
- Admission and orientation (6VAC35-41-760):
 - Add requirement that residents be oriented on their rights including, but not limited to, the prohibited actions.
 - Add language to require staff to inquire of the residents' parents or legal guardians regarding any immediate medical concerns or conditions the resident may have.
- Staff supervision of residents (6VAC35-41-910): Delete the requirement that staff provide 24 hour awake supervision seven days a week as residents of group homes attend public school and participate in other unsupervised activities in the communities.
- First aid kits (6VAC35-41-1260): Require first aid kits to have an inventory of the contents.
- Behavior management (6VAC35-41-1290):
 - Change "listing" to "description" to allow facilities flexibility in how the program is detailed in any applicable procedure or manual.

- Delete the requirement that "sanctions shall be listed in the order of their relative degree of restrictiveness and shall contain alternative to room confinement as a sanction" to account for programs who allow time out, either at the request of the resident or staff, to be used as a primary intervention.
 - Delete "privileges are applied and" in subdivision B(5) since the acquisition of privileges in many facilities takes place over time; i.e., earning a specific programmatic level, etc., and includes a whole set of privileges. The specifics on how and when each privilege is earned would be more appropriately addressed in facility procedures.
 - Deletes "specification of the process for implementing such procedures" as this is inclusive in the meaning of a "behavior management program."
- Physical restraint (6VAC35-41-1320): Mandate that restraints be implemented, monitored, and discontinued only by staff who have been trained by changing "may" to "shall."
- The following changes are made in order to ensure that the facilities are following the current recommendations or guidance from the applicable agencies.
- Employee tuberculosis screening and follow-up & Tuberculosis screening (resident) (6VAC35-41-165 and 6VAC35-41-1210): Remove the reference to the Department of Health's tuberculosis guidelines.
 - Nutrition (6VAC35-41-650): Remove the reference to U.S.D.A. guidelines.
 - Medication (6VAC35-41-1280): Remove the reference to the Board of Nurses' medication training curriculum.
 - Health screening at admission (6VAC35-41-1200): Remove the requirements for facilities to use a specific form for the health screenings at admission.
- Move certain sections to more appropriate parts.

The following is a summary of the overall changes made from the current regulatory scheme (6VAC35-140 and 6VAC35-51):

- Contains only those provisions relating to that type of facility's operation and management.
- Removes any responsibilities of the department, regulatory authority, or the board currently included in the regulations; i.e., issuance of license/certificate and sanctions.
- Reorganizes the order of the regulatory provisions and groups the provisions with similar provisions. The proposed regulation has sections for: (1) general provisions; (2) administration and personnel; (3) physical environment; (4) safety and security; (5) residents' rights; (6) program operation; (7) work programs; (8) health care services; and (9) behavior management. Facility specific parts are included as needed; i.e., wilderness and independent living programs.
- The following changes are proposed to the General Provisions:
 - Deletes many definitions (such as the definition of "day" and "therapy"); changes definitions to correspond with those used in other regulations; and, where appropriate, incorporates definitions into the substantive provisions of the regulation. Adds definitions for "direct care staff," "direct supervision," "regulatory authority," and "written."
 - Cross-references the board's Certification Regulation (6VAC35-20) for consistency in application of variances.

- Allows serious incident and child protective service reports to be noted in the resident's case record and documented elsewhere. Mirrors recent changes adopted by the Department of Social Services in its residential regulation.
- The following changes are proposed in Administration and Personnel:
 - Amends the provisions relating to community relationships. Each draft adopts different provisions specific to the type of setting and locations.
 - Amends the background checks sections to conform with the board variance issued November 2008.
 - Reworks the entire training sections. Separates (i) orientation (2) required initial training; and (3) retraining. Some different requirements are in each of the facilities.
 - Adds a requirement for staff who transport residents to report any changes in their license status.
 - Clusters all provisions relating to volunteers together.
 - Reworks the staff and resident tuberculosis screening requirements to conform with the language of the Division of Tuberculosis Control in the Department of Health.
 - Removes the requirement to retain face sheets permanently.
 - Amends the qualifications section to require the facility to follow the procedures of the governing authority or locality and ensure employees meet applicable job qualifications.
 - Deletes the provision requiring a procedure regarding political activity on the premises.
- The following changes are proposed to the Physical Environment:
 - Amends requirements relating to fire inspections.
 - Groups all space utilization requirements into one section and removes the current regulatory requirements to accommodate study space and all requirements relating to live-in staff.
 - Does not require the sleeping environment to be conducive to sleep and rest.
 - Deletes the space requirements for a dining area and school classrooms.
 - Removes prohibition on allowing residents to prepare food.
- The following changes are proposed to Safety and Security:
 - Clarifies the requirements for residents and contract workers in implementing and training on the emergency/evacuation plan.
 - Reworks the searches of residents section to address facility-specific issues.
 - Adds a section requiring a procedure if residents are allowed to access the internet.
 - Prohibits weapons on the premises except by law enforcement and defines "weapon."
 - Deletes the requirement for safety rules for the use and maintenance of power equipment.
- The following changes are proposed to Residents' Rights:
 - Changes requirement to mail visitation procedure from within 24 hours to by "the end of the next business day."
 - Adds a section titled "Contact with attorneys, courts, and law enforcement."
 - Removes the provisions regarding incontinent residents.
- The following change is proposed to Program Operation:
 - Separates and reworks the sections regarding individual service plans and quarterly reports.
- Reworks and updates the health care sections.

- The following changes are proposed to Behavior Management:
 - Changes the requirement for all residents to have a behavior support plan to a requirement for a plan to be developed when there is a need for supports in addition to those provided for in the behavior management program.
 - Prohibits the use of chemical agents.
- Redrafts confusing language and deletes unnecessary verbiage.
- Makes other technical and stylistic changes, such as deleting provisions that are duplicative of other regulatory or statutory requirements (such as the restatement that the facility must comply with laws or procedures).
- Deleted sections not related to juvenile group homes and halfway houses.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If there are no disadvantages to the public or the Commonwealth, please indicate.

The Board of Juvenile Justice serves as the regulatory authority for secure residential facilities, both juvenile correctional centers and local detention centers, and the group homes/halfway houses operated by or funded through the department. Currently, these facilities are governed by two separate regulations: (1) the Standards for Juvenile Residential Facilities (6VAC35-140) and (2) the Standards for the Interim Regulation of Children's Residential Facilities (6VAC35-51), unless specifically exempted.

The current regulatory scheme has several difficulties in application. Each regulation has the full force and effect of law. Unfortunately, some of the provisions are contradictory or conflict. Additionally, there are numerous exclusions for the different types of facilities from a variety of regulatory provisions. Sometimes it is unclear exactly which facilities are exempted and to which section or subsection such exceptions are applicable.

To address these issues the department considered two courses of action: (1) consolidate the two existing regulations into one or (2) separate the two regulations into three regulations, one for each different "type" of facility regulated by the board.

Due to the distinct characteristics of the types of facilities regulated by the Board of Juvenile Justice and the complexity of applying a single regulation to the appropriate facility, it was concluded that it would be difficult to regulate all such facilities in one single regulation. The board approved pursuing the second course of action. Thus, the department is proposing separate regulations for the three distinct types of facilities it regulates: (1) juvenile correctional centers; (2) detention centers; and (3) group homes/halfway houses.

Having clear, concise regulations is essential to protecting the health, safety, and welfare of residents in juvenile group homes and halfway houses and citizens in the community. With clear expectations for the administrators running these facilities, they will be able to run the facilities more smoothly and can utilize

any extra resources for supporting the needs of the residents, thus maintaining the overall rehabilitation and community safety goals of the department.

This regulation poses no known disadvantages to the public or the Commonwealth.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
General		Deletes reference to license (done throughout the regulation) and uses terms "certify," "certification," and "certificate" throughout the document.	The department does not license residential facilities, it certifies them.
40	Addresses requirements related to the certification of a facility.	Deletes "are being implemented" and changes "an" to "any."	Changes confusing language.
70	Requires the facility to self-report any lawsuits or settlements against the facility that deal with the health, welfare, or the safety of the residents.	Changed "self-reported" to "reported."	Technical change.
90	Requires serious incidents, including death, to be reported within 24 hours.	Adds language that all serious incidents be reported in accordance with department procedures. Adds a new provision that the parents of all residents will be notified of any incident involving the death of a resident, provided confidentiality and prosecution will not be affected by the disclosure.	Separates incidents involving the death of a resident as this circumstance requires special consideration, particularly in local, community-based facilities. Clarifies that notice of such incidents must be made without undue delay.
100	Addresses process to be followed in cases of suspected child abuse or neglect.	Adds a requirement that measures be taken to ensure the safety of the resident and the staff when there is an incident involving suspected child abuse or neglect.	Ensures uniformity in procedures relating to a facility's response to an incident involving suspected child abuse or neglect.
105	Requires staff and the superintendent to report certain criminal activity by residents and staff.	Adds language specifying that the applicable criminal activity includes any physical abuse, sexual abuse, or sexual harassment of residents. Moved from other section (240).	Includes clarifying language on the scope of the applicable criminal activity. Other technical changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
145	Requirement for operational procedures.	Moved from other section (830).	Technical change.
165	Requires tuberculosis control practices to be in accordance with specific Department of Health policies and guidelines.	Moves from other section (320). Deletes reference to specific Department of Health policies and guidelines.	Allows the facilities to follow the current guidance and recommendations of the Department of Health rather than stagnating with those guidelines in existence at the time the regulation becomes effective.
200	Requires training on residents' rights.	Clarifies that the residents' rights training includes training on the right to be free of all forms of abuse.	Clarifying amendment (in accord with public comment and proposed Prison Rape Elimination Act [PREA] standards).
210	Requires retraining on residents' rights.	Clarifies that the residents' rights retraining includes training on the right to be free of all forms of abuse.	Clarifying amendment (in accord with public comment and proposed PREA standards).
240		Moved to section 105.	Technical change
300	Requires volunteers and interns to be trained on residents' rights.	Clarifies that the residents' rights training includes training on the right to be free of all forms of abuse.	Clarifying amendment (in accord with public comment and proposed PREA standards).
310	Requires records to be maintained in a certain manner.	Changes language regarding reference checks.	Technical change.
320		Moved to section 165	Technical change.
400	Requires certain number of toilet facilities per resident.	Removes duplicative language. Other technical changes.	Technical change.
430	Requires flammable, toxic, and caustic materials to be stored, used, and disposed of in accordance with applicable laws.	Adds "medical" to the list of materials.	Medical waste is currently managed in accordance with applicable changes. This change is in response to a public comment as it fits naturally in this section.
510	Sets forth requirements for the searches of residents.	Adds a requirement that patdown and frisk searches be conducted by staff of the same sex as the resident being searched (except in emergencies). Other technical changes.	Corrects a drafting error and brings this provision in line with the current regulatory requirements.
540	Addresses weapons on	Adds "but will not be limited to"	Allows flexibility in the

Section number	Requirement at proposed stage	What has changed	Rationale for change
	facility property.	to the definition of weapon.	definition; i.e., for the inclusion of weapons not enumerated such as stun guns.
560	Lists the actions that may not be taken against residents.	Clarifies right to be free from any action that is abusive including the right to be free from sexual abuse, physical abuse, and sexual harassment.	Clarifying amendment (in accord with public comment and proposed PREA standards).
560	Lists the actions that may not be taken against residents.	Deletes "involuntary" before placement in restriction of placing a resident in a locked room.	Technical change.
560	Lists the actions that may not be taken against residents.	Deletes duplicative language relating to the prohibition on the use of involuntary pharmacological restraints	Technical change.
560	Lists the actions that may not be taken against residents.	Expands the anti-discrimination clause to address all forms of disability and sexual orientation.	The change in disability scope aligns the language with federal law. The addition of sexual orientation is in response to public comment and in accord with the requirements of the proposed PREA standards. * NOTE: The language in subdivision 16 has changed since originally approved by the Board, after first approved by the Board in June 2010, through the Executive Branch Review, it was determined that the proposed language exceeding the Board's rulemaking authority. On January 10, 2012, the Board approved alternative language. The alternative language is in the proposed draft.
600	Sets the residents' rights regarding contact with attorneys, the courts, and	Deletes language defining a legal representative.	This is in response to public comment and allows facility

Section number	Requirement at proposed stage	What has changed	Rationale for change
	law enforcement.		procedures to govern the definition.
610	Requires residents to be provided with clothing and shoes.	Deletes this requirement.	This is also required in section 630. The change removes the duplicative language from this section and amends section 630 for conformance.
610	Requires linens to be changed at a minimum every seven days.	Adds language that the linens should be changed more often if needed.	Clarifying amendment added as requested in public comment.
630	Sets requirements related to the selection, availability, and provision of clothes and shoes.	Changes "well-fitting" to "size-appropriate."	Adopts the language for the deleted provision from section 610 as "well-fitting" is more subjective than "size-appropriate;" i.e., baggy jeans.
650	Requires meals to be in accordance with the nutritional requirements of the USDA guidelines.	Removes reference to the guidelines.	Allows the facilities to follow the current guidance and recommendations of the federal nutrition and dietary requirements rather than stagnating with those guidelines in existence at the time the regulation becomes effective.
760	Sets forth the requirements for resident admission.	Adds a requirement that parents or legal guardians are asked about any immediate medical concerns or conditions the resident may have at admission.	Seeks to provide additional information to the facility at intake in order to effectuate the residents' medical needs being appropriately addressed.
760	Sets forth the requirements for resident admission.	Adds the requirement that residents be oriented on their rights, including the right to be free from any form of abuse.	Amends to ensure that all orientation and admission requirements include an orientation on the residents' rights.
830		Moves to section 145.	Technical change.
920	Establishes the minimum standard for staff supervision of residents.	Deletes the requirement that staff supervise residents 24 hours a day, seven days a week.	Corrects drafting error to reflect the family-type status of nonsecure, group homes. Residents go to school and

Section number	Requirement at proposed stage	What has changed	Rationale for change
			participate in other activities not under the supervision of direct care staff.
1200	Requires a health screening at admission to be done using a health screening form.	Deletes the reference to a specific form.	Allows flexibility for the form to change.
1210	Requires tuberculosis screening and control practices to be in accordance with specific Department of Health policies and guidelines.	Moves from other section. Deletes reference to specific Department of Health policies and guidelines.	Allows the facilities to follow the current guidance and recommendations of the Department of Health rather than stagnating with those guidelines in existence at the time the regulation becomes effective.
1260	Sets forth the requirements for first aid kits.	Adds a requirement that the kits be stocked "in accordance with an inventory of contents."	In response to public comment; allows the facilities to determine the minimum required contents of the first aid kits.
1280	Requires employees who administer medication to receive training in accord with the Department of Health's curriculum.	Removes reference to the specific curriculum and adds a reference to the governing statutes.	Allows the facilities to follow the current curriculum and recommendations of the Department of Health rather than stagnating with those guidelines in existence at the time the regulation becomes effective.
1290	Establishes minimum standards for behavior management programs.	Changes "listing" to "description" to allow facilities flexibility in how the program is detailed in any applicable procedure or manual. Deletes the requirement that "sanctions shall be listed in the order of their relative degree of restrictiveness and shall contain "alternative to room confinement as a sanction" to account for programs who allow time out, either at the request of the resident or staff, to be used as a	Changes the language to allow facilities more flexibility in the establishing behavior management programs. All facilities certified under the current regulations have behavior management programs which were reformulated with the 2007 changes to the Interdepartmental/ CORE regulation

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		<p>primary intervention. Deletes "privileges are applied and" in subdivision B(5) since the acquisition of privileges in many facilities takes place over time; i.e., earning a specific programmatic level, etc., and includes a whole set of privileges. The specifics on how and when each privilege is earned would be more appropriately addressed in facility procedures. Deletes "specification of the process for implementing such procedures" as this is inclusive in the meaning of a "behavior management program."</p>	(22VAC42-11). Some of the language recommended to be changed would have caused some hardship to facilities (that currently have functioning behavior management programs). As such, the proposed changes effectuate that end.
1320	Sets forth requirements relating to the use of physical restraint.	Changes "may" to "shall" in (A)(3).	Corrects drafting error as this requirement applies to all uses of physical restraint.
Forms & Incorporated Documents		Deletes all as references in applicable sections have been deleted.	See comments in applicable regulatory sections.
			Additional technical/nonsubstantive changes were made throughout the document.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
1- General comment. JustChildren	Change title to "Regulation Governing Juvenile Group Homes, Family Oriented Group Homes, and Halfway Houses."	Thank you for your comment. The proposed title is derived from the title of the existing regulation. Family-oriented group homes are a subsection of group homes and need not be separately addressed in the title. The regulation does distinguish halfway houses as they are governed by a different governing statute. Accordingly, the department is not

Commenter	Comment	Agency response
<p>2- General comment.</p> <p>MAJDC (Mid-Atlantic Juvenile Defender Center) JustChildren FAVY (Families & Allies of Virginia Youth) RJDC (Richmond Juvenile Detention Center)</p>	<p>The proposed Prison Rape Elimination Act (PREA) standards should be incorporated into the residential regulation.</p>	<p>recommending adopting the recommended change.</p> <p>Thank you for your comment. The department has a policy of zero tolerance of any form of abuse against individuals residing in facilities regulated by the board and agrees that keeping residents free from any form of abuse is of the utmost importance. The zero-tolerance policy is taken very seriously by the regulated group homes and halfway houses. They are diligent in their efforts to keep residents safe from any kind of abuse. However, the PREA standards, when finalized and adopted, will not be applicable to group homes as these are not secure facilities (and many standards do not apply to nonsecure, local residential facilities). Thus, the department, at this time, is not recommending incorporating the proposed PREA standards, in their entirety, into the group home regulations.</p> <p>However, please note that the department is recommending, in support of its zero-tolerance policy, clarifying language be added to 6VAC35-41-560 (Prohibited actions) that will specifically list a prohibition against "physical abuse, sexual abuse, and sexual harassment." The department also recommends specific reference to the prohibited actions in the three training sections - 6VAC35-41-200 (Required initial training), 6VAC35-41-210 (Retraining), and 6VAC35-41-300 (Volunteer and intern orientation and training). Furthermore, the department recommends that a specific reference to training residents on their right to not be subjected to the prohibited acts be added to the resident orientation provided for in 6VAC35-41-760 (Admission).</p>
<p>3-</p>	<p>In tuberculosis (TB) sections, remove reference</p>	<p>Thank you for the comment. The</p>

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<p>General comment.</p>	<p>to guidelines.</p> <p>Applicable to: 6VAC35-41-320 and 6VAC35-41-1210 and Documents Incorporated by Reference.</p>	<p>intent of referencing the requirements of the Department of Health's Division of Tuberculosis Control is to have a fluid document that allows the regulation to mirror the current recommendations of the Department of Health. As such, the department recommends removing the reference to a specific Department of Health policy (both in the regulation and in the documents incorporated by reference) and inserting language that would require regulated facilities to follow the current recommendations of the Virginia Department of Health for tuberculosis detection and screening.</p>
<p>4- General comment.</p> <p>VDSS (Virginia Department of Social Services)</p>	<p>Several places in the regulation, the language includes both terms of "license" and "certification". DJJ "certifies" and does not "license". If this is the case then, changes need to be made in the following areas: See:</p> <ol style="list-style-type: none"> 1. definition of juvenile residential facility; 2. 50.B change to "certified" capacity [2 places]; 3. 60B. delete "license or" [2 places]; 4. 400C delete "or licensed"; and, 400D delete "or licensed." 	<p>Thank you for your comment. The department recommends adopting the proposed changes.</p>
<p>5- General comment.</p> <p>VA CURE (Virginia – Citizens United for the Rehabilitation of Errants)</p>	<p>The following concepts should be incorporated in the proposed regulations:</p> <ul style="list-style-type: none"> - Ongoing education of juveniles/residents on the importance of reporting incidents must be provided. - Easy access to reporting of problems by juveniles and staff must be available. - Education of staff on consequences of not reporting suspected child abuse must be emphasized and staff should sign a document acknowledging the requirements. - Support background checks for volunteers and contractors as well as for DJJ staff. - Periodic unannounced room checks at all facilities should be performed by monitors. 	<p>Thank you for your comment. The department appreciates your concern for the safety of the residents.</p> <ul style="list-style-type: none"> o Residents undergo an extensive orientation upon initial admission to a facility (see 6VAC35-41-760 and 6VAC35-41-770). o Additionally, residents are oriented to the grievance procedure, and it is posted in places easily accessible to residents. o Staff are required to report any suspected child abuse and neglect and are trained as to the proper reporting of any suspected abuse or neglect and of any serious incidents. Moreover, staff are trained as to the rights of residents and the role of the grievance procedure. o To further reinforce the importance of the department's zero tolerance of

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		<p>abuse, the department recommends the training sections (6VAC35-41-200, 6VAC35-41-210, and 6VAC35-41-300) be amended to specifically require training on residents' rights, which includes the prohibition of any physical or sexual abuse or sexual harassment.</p> <ul style="list-style-type: none"> ○ Documentation of such training is retained by the facilities as they have the burden of proving compliance with the regulatory requirements during its audits during the certification process. ○ All volunteers and contractors who will be alone with residents must undergo background checks and, if background checks are not completed, the facilities must follow procedures for the supervision of such persons (see 6VAC35-41-180(D)). ○ Storage of necessary, surplus, and miscellaneous items is necessary for the proper functioning of a group home or halfway house. In fact, the regulations require storage space (see 6VAC35-41-450(A)(8)). However, residents must be supervised, if access is allowed into such spaces, at all times (see 6VAC35-41-920 and 6VAC35-41-930) in order to sufficiently supervise and keep residents safe. <p>Also, please note that group homes have a more "homelike" environment than the other types of facilities regulated by the board (juvenile correctional centers (JCCs) and detention centers), and residents are not confined in locked rooms. Staff must do room checks, and the Certification Unit reviews these records during the auditing process.</p>
<p>6-6VAC35-41-10. Definitions. VDSS</p>	<p>Definition: "Regulatory authority" looks like something is missing in this definition. Suggest that the definition read "regulatory authority means the board-designated department which is responsible for certification of juvenile residential facilities including group homes,</p>	<p>Thank you for your comment. The Board of Juvenile Justice is the regulatory authority for the facilities it regulates. The board may delegate certain duties; i.e., receiving reports and providing notices, but it is the</p>

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	family oriented group homes or halfway houses."	ultimate decision maker regarding certification status. Accordingly, the department does not recommend adopting the proposed change.
<p>7-6VAC35-41-90. Serious incident reports.</p> <p>FAVY MAJDC</p>	<p>Add a requirement to report any incidents or suspected incidents of sexual victimization as a serious incident report.</p> <p>This is in line with the National Prison Rape Elimination Commission (NPREC) recommendations for juvenile facilities: "Upon receiving any allegation of sexual abuse, the facility head must immediately report the allegation to the agency head, the juvenile court that handled the victim's case or the victim's judge of record, and the victim's parents or legal guardians, unless the facility has official documentation showing the parents or legal guardians should not be notified."</p>	<p>Thank you for your comment. Any such incidents involving staff would fall under the required reporting of criminal activities or child abuse or neglect and any involving a resident as an alleged perpetrator would constitute assault, which are included in the serious incidents required to be reported (and subject to the notice requirements to the department and parents/legal guardians). Please see the response to the first comment for more details relating to the adoption of the proposed PREA standards.</p>
<p>8-6VAC35-41-90. Serious incident reports.</p> <p>FAVY</p>	<p>Required reporting should include instances of:</p> <ul style="list-style-type: none"> - Sexual victimization, - Restraints (physical and mechanical), and - Use of force. <p>Incidents involving the use of force, physical restraints - and in the case of JCCs and detention centers, the use of mechanical restraints - should also be reported, unless the mechanical restraint is incidental to transporting a resident.</p> <p>These types of incidents may be implied by the phrase "serious incident," but since that term is not defined, it's better to have these explicitly listed as reportable events in each regulation.</p>	<p>Thank you for your comment. Any such incidents involving staff victimizing residents would fall under the required reporting of criminal activities or child abuse or neglect and any involving a resident victimizing a resident would constitute assault, which is included in the serious incidents required to be reported. Any restraint or use of force that is considered a serious incident; i.e., result in injury to a resident, are subject to the notice provision. Use of force is not defined and the definition of restraint is very expansive. Restraints include any "application of behavior intervention techniques involving a physical intervention to prevent an individual from moving all or part of that individual's body." While use of a full restraint is rare and may be prohibited in some facilities, the definition includes any circumstances where a staff places a hand on a resident's body; i.e., shoulder or arm, to redirect movement. Requiring notice in accordance with section 90 for each such instance would be very burdensome. Any restraint that results</p>

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		<p>in injury would become a "serious incident" and would require reporting as required in section 90. Also, please note that the Certification Unit during the audit process reviews a random sample of records of restraint if any are performed during the audit process for compliance with the applicable regulatory requirements. Accordingly, the department does not recommend any change to the proposed regulation relative to this comment.</p>
<p>9-6VAC35-41-90. Serious incident reports. VA CURE</p>	<p>Should the awful happen and a juvenile/resident die while incarcerated at a facility, or a staff member die while on duty at a facility, all parents of residents in that facility should be notified.</p>	<p>Thank you for your comment. The department recognizes the serious nature of any incident that results in the death of a resident and the concern it may cause for the parents of other residents at the facility. Given that group homes are community-based, the department recommends adding a provision for notice to all parents if a resident dies at the facility, with the caveat that such notice shall be in compliance with the requirements of confidentiality and will not interfere with any police or child abuse or neglect investigation or prosecution of any case related to the death. Additionally, the department recommends a technical amendment to ensure that immediate notice to parents is provided in any incident involving the death of their child.</p>
<p>10-6VAC35-41-100. Suspected child abuse or neglect. VA CURE</p>	<p>The regulation should expand its specific requirements to staff, residents, and contractors on training, reporting of potential abuse, and on implementing periodic surveys of staff and juveniles in the regulations.</p>	<p>Thank you for your comment. Please note that the proposed regulation would require all staff to be oriented on the mandatory reporting requirements (see 6VAC35-41-200); direct care staff and employees who will be responsible for the direct supervision of residents to complete initial training in mandatory reporting prior to working alone with residents (see 6VAC35-41-200); direct care staff to be retrained on mandatory reporting (see 6VAC35-41-210); and volunteers and interns to be trained on</p>

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		<p>their duties and responsibilities (see 6VAC35-41-300). Accordingly, the department does not recommend any change in the training requirements. The department is unclear on the intent of the commenter's suggestion that the regulation should contain a specific requirement "on implementing periodic surveys of staff and juveniles in the regulations." However, the Certification Unit, in conducting audits and monitoring visits (as provided in 6VAC35-20) interviews both staff and residents regarding certain regulatory requirements.</p>
<p>11-6VAC35-41-100. Suspected child abuse or neglect. VA CURE VDSS</p>	<p>VA CURE: Should include all ways provided for in the Code for reporting.</p> <p>VDSS: This section needs to include the additional option for reporting suspected abuse or neglect through the toll-free hotline. "When there...department of social services or to the department of social services' toll-free child abuse and neglect hotline as required by ..." Also suggest that the following language (from the Code) be added for clarity of those making the report "local department of the county or city where the child resides or wherein the abuse or neglect is believed to have occurred."</p>	<p>Thank you for your comment. The current provision contains a cross-reference to the applicable Code section, thus providing an easy reference, if needed. Moreover, the requirements of the Code of Virginia supersede the regulation and do not need to be included in their entirety in regulations.</p>
<p>12-6VAC35-41-100. Suspected child abuse or neglect. RJDC</p>	<p>The standard is silent about what happens to staff or the child during the period of investigation. Staff should be removed from contact with children.</p> <p>This standard should include the steps that are being taken to ensure the continued safety and well being of the resident. This may include assigning the accused employee in a non-contact position pending the outcome of the investigation.</p>	<p>Thank you very much for your comment. While current practice requires the protection of the resident from the alleged abusing party and some local departments of social services require facilities to develop a "plan of action," the department recognizes the importance of having this addressed in regulation. Accordingly, the department recommends adding a requirement that the procedures relating to suspected child abuse and neglect address the "measures to be taken to ensure the safety of the resident and the staff."</p>
<p>13-6VAC35-41-110. Grievance procedure.</p>	<p>The grievance sections should be enhanced, particularly as a tool to prevent child abuse. Also, the DJJ Board should receive an</p>	<p>Thank you for your comment. The board may, at any time, request a report on the number of grievances.</p>

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VA CURE	aggregated report on grievances as well as a random selection of actual grievances to become familiar with the types of issues reported. Each facility should maintain all grievances and provide periodic reports to the DJJ Board.	Such a requirement need not be mandated in the regulation and could result in the utilization of resources for a report about which the board does not have an interest. Please note that facilities do retain documentation of grievances for three years, and a sample of the grievances is reviewed and residents are interviewed as to the grievance process during the Certification Unit audit process. Accordingly, the department does not recommend any changes to the proposed regulation.
14-6VAC35-41-140.A. Participation of residents in human research. VDSS	Currently includes a definition of human research. Suggest moving the definition of human research to the definition section of the regulation.	Thank you for your comment. Section 140 is the only section where the term "human research" is used. Accordingly, the department recommends retaining the definition in this section.
15-6VAC35-41-180.A.1. Background checks. VDSS	"A reference check" implies that you seek only one reference on employees and volunteers. Suggest that the language be changed to "A check of references." Changing this language would be consistent with language of standard 310.B.3.	Thank you for your comment. The reference requirement models the existing regulation and statute. Additional requirements for reference checks are dictated to facilities by their locality's human resource department, and the department declines to impose additional requirements in the regulation. To have conformity with the cross-reference, the department recommends changing section 310.
16-6VAC35-41-180.B. Background checks. VDSS	180.B is not consistent with § 63.2-1726 (last sentence of section A). (The provisions of this section also shall apply to structured residential programs, excluding secure detention facilities, established pursuant to § 16.1-309.3 for juvenile offenders cited in a complaint for intake or in a petition before the court that alleges the juvenile is delinquent or in need of services or supervision.) Federal requirements will not allow anyone to have any contact with children before the national background has been returned and it has been determined that the individual has no barrier crimes. This requirement was put into §	Thank you for your comment. The department believes the provisions in section 180 are consistent with the requirements of §§ 32.1-1726 and 66-24 of the Code of Virginia and federal standards (which require states to have appropriate protections in place for the safety of residents, with specific provisions required for adoptive/foster homes). The required background checks must be completed on employees and volunteers who will work or be alone with residents. The proposed regulation requires the Virginia

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	<p>63.2-1726 for the DJJ group homes as they may accept children whose placement is being paid with Title IV-E funds.</p> <p>Same argument applies to section 290 (Volunteer and intern background checks).</p>	<p>criminal background check and child protective services registry check to be completed before any conditional offers of employment are made. The regulatory provision requires staff to have background checks completed before they will be alone with residents and must be supervised at any time there may be contact with residents before the check is completed. Facility administrators report that it has taken up to 12 weeks for the FBI checks to be returned and generally takes approximately eight weeks. This delay causes serious issues in hiring by losing qualified candidates to other employers pending receipt of the FBI checks. The proposed regulatory provision would serve to reduce the time frames for conditional offers while requiring specific measures be taken to ensure the safety of any resident who may have contact with the conditionally hired staff pending receipt of the results of the FBI checks.</p>
<p>17-6VAC35-41-180.B. Background checks.</p> <p>RJDC</p>	<p>The standards should emphasize to the facility about mobility of staff and running annual police checks against the NCIC records.</p> <p>In some cases, employees have been arrested in another jurisdiction and have not reported their arrest to the detention administration. To protect residents and staff, the detention administrator should request that a local law-enforcement agency check employee names against the National Criminal Information Center (NCIC) to identify any employees who may have been arrested in the proceeding year.</p>	<p>Thank you for your comment. The current and proposed background check requirements mandate a check of the FBI criminal database. This check would indicate any out-of-state convictions and should address the commenter's concerns. Also, please note that staff are required to report any criminal activities, and facilities may run annual checks based on ability and resources (as such a new mandate would result in additional costs to the facility). Thus, the department is not recommending adopting the proposed change.</p>
<p>18-6VAC35-41-190. Required initial orientation.</p> <p>FAVY MAJDC</p>	<p>Training and retraining* for direct care staff in all three types of facilities should include:</p> <ol style="list-style-type: none"> 1. Basic training in adolescent development (especially social, emotional, and psychological); 2. Training in working appropriately and respectfully with lesbian, gay, bisexual, transgender, and questioning (LGBTQ) 	<p>Thank you for your comment. The department understands the importance of appropriate training for all staff working with residents. The current and proposed regulation requires 40 hours of training, which includes training in (1) maintaining appropriate professional relationships</p>

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	<p>youth;</p> <p>3. Training in identifying, preventing, and reporting sexual victimization of youth.</p> <p>Training in these three areas should be specifically required so that direct care staff all has the knowledge and skills to understand and work appropriately with all youth in these facilities.</p> <p>Adolescents are not merely small adults. Those who work closely with them need to have a basic understanding of their development in order to respond to them appropriately.</p> <p>The Child Welfare League of America's Best Practice Guidelines for Serving LGBTQ in Out-of-Home Care notes that agencies should "adopt a policy that explicitly prohibits harassment and discrimination on the basis of actual or perceived sexual orientation, gender identity and other protected categories." It further says that child welfare and juvenile justice agencies should "provide both initial and ongoing training to all agency personnel on the application of the nondiscrimination policy and on working with LGBT youth effectively. Training is a crucial aspect of creating cultural change because it reinforces the agency's commitment to providing appropriate and inclusive care."</p> <p>The proposed Prison Rape Elimination Act standards mandate that agencies train all employees "to be able to fulfill their responsibilities under agency sexual abuse prevention, detection, and response policies and procedures; the PREA standards; and under relevant federal, state, and local law. The agency trains all employees to communicate effectively and professionally with all residents. Additionally, the agency trains all employees on a resident's right to be free from sexual abuse, the right of residents and employees to be free from retaliation for reporting sexual abuse, the dynamics of sexual abuse in confinement, and the common reactions of sexual abuse victims."</p> <p>*Retraining should be addressed in section 170 (Retraining).</p>	<p>and (2) appropriate interaction among staff and residents. While the proposed changes may be "best practices" for training curriculum, the specific components of these trainings would be more appropriately addressed in procedures or curriculum as each facility must train staff for competency in their positions; and facilities should be afforded some flexibility in setting training plans and curriculums. The regulated group homes have a lower number of staff than JCCs and juvenile detention centers. Staff must meet entry level qualifications and many have college degrees, often in psychology or criminal justice, and may benefit from specific initial trainings in other areas. Please note that the third proposed change is reflective of a proposed PREA standard. For a comprehensive department response relating to all proposed PREA standards, please see the response to the first comment.</p>

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19-6VAC35-41-200.B.2. Required initial training. VDSS	Language as written seems unclear. Suggest clarity change to: "First aid and cardiopulmonary resuscitation, as applicable to their duties; however, individuals with evidence of current certifications shall be deemed to have met this training requirement."	Thank you for your comment. The requirement of the CPR/first aid applies to the individual designated as the trained person at the facility as required by section 920(F). As such, the training is not required for all individuals in any staff classification. As the drafted language reflects the proposed intent, the department does not recommend adopting the proposed change.
20-6VAC35-41-210.H. Required retraining. VDSS	What does "not timely completed" mean? Standard as written is not clear so will be hard to measure.	Thank you for your comment. "Not timely completed" means that the training was not completed before the required time frame for retraining expires. This may be one, two, or three years. Thus, having any concrete language as to time frames may be over or under inclusive. Accordingly, the department does not recommend adopting the proposed change.
21-Proposed section: 235. Grievance against staff. MAJDC	To protect youth from sexual and other abuse, personnel records and background checks should include any grievances made against the employee by residents, including a written explanation of the circumstances leading to the grievance, the administrative procedure followed, and the result of the grievance.	Thank you for your comment. Current practice includes maintaining a separate file of grievances for three years. If the grievance equates to suspected child abuse or neglect, the procedures for Child Protective Service (CPS) reporting and documentation are followed. If the CPS complaint is founded, it is maintained in the CPS registry. Also, if the grievance results in disciplinary action against staff, the documentation of that action is maintained in the employee's personnel file. Thus, the department does not recommend any change to the proposed regulation.
22-6VAC35-41-240. Reporting criminal activity. DJJ staff	Move to Part 1, General Provisions. This is more consistent with serious incident reporting.	Thank you for your comment. The department recommends the move to section 105.
23-6VAC35-41-250. Notification of change in driver's	Remove. This is a staff performance issue. Conditions of employment require staff to have a valid driver's license and to report any revocations. Staff accountability is addressed	Thank you for your comment. The department recommends retaining this provision as staff of group homes are very likely to transport residents, and

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license status. DJJ staff	via the Standards of Conduct; therefore this requirement should be included policy and procedures. Additionally, this would be difficult to audit.	this provision is an appropriate additional protection for the safety of residents.
24-6VAC35-41-280. Selection and duties of volunteers and interns. RJDC	<p>There appears to be an inconsistency between this standard and the standard that follows 6VAC35-41-280. In this standard, it states in paragraph D, "Volunteers and interns shall neither be responsible for the duties of direct care staff nor for the direct supervision of the residents."</p> <p>In standard 6VAC35-41-290, however, it states in paragraph A, "Any individual who (i) volunteers on a regular basis or is an intern and (ii) will be alone with a resident in the performance of that person's duties shall be subject to the background check requirements in 6VAC35-41-180 A (Employee and volunteer background checks)."</p>	<p>Thank you for your comment. The two provisions serve different goals. Background checks are required if the individual volunteers on a regular basis and will be alone with a resident. There may be individuals who do not meet these criteria but may meet confidentially with residents. In such cases, the individual (if no background check has been completed) will be under the visual supervision of direct care staff. However, under no circumstances will volunteers serve as direct care staff (responsible for the supervision of residents and the security of the facility). In all cases, the direct care staff will be visually supervising the residents; i.e., via camera or window.</p>
25-6VAC35-41-290.C. Background checks for volunteers and interns. VDSS	<p>290.C is not consistent with § 63.2-1726 (last sentence of section A). "The provisions of this section also shall apply to structured residential programs, excluding secure detention facilities, established pursuant to § 16.1-309.3 for juvenile offenders cited in a complaint for intake or in a petition before the court that alleges the juvenile is delinquent or in need of services or supervision."</p> <p>Federal requirements will not allow anyone to have any contact with children before the national background has been returned and it has been determined that the individual has no barrier crimes. This requirement was put into § 63.2-1726 for the DJJ group homes as they may accept children whose placement is being paid with Title IV-E funds.</p>	<p>The department believes the provisions in section 180 are consistent with the requirements of §§ 32.1-1726 and 66-24 of the Code of Virginia (and consistent with federal requirements that mandate states to have appropriate protections in place for residents in group homes, with specific requirements applicable to adoptive and foster homes). Background checks are required to be completed on volunteers who volunteer on a regular basis and will be alone with residents. The exception for hiring pending FBI results does not apply to volunteers (only employees).</p>
26-6VAC35-41-320. Employee tuberculosis screening and follow-up. DJJ Staff	Move to Part II, Administration and Personnel.	Thank you for your comment. The department recommends moving these provisions to a new section 165.

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27- 6VAC35-41-330.G. Maintenance of residents' records. VDSS	This standard as written is not measurable as there are multiple schedules of record keeping within the record retention schedules maintained by the Library of Virginia. Also, are you addressing both disposition and storage? Suggest that language be added for clarity: "disposition and storage schedules shall be consistent with the requirements contained in Library of Virginia (name schedule)."	Thank you for your comment. The requirements of the Library of Virginia (LOV) relate to the retention and disposition of records (see § 42.1-76 et seq. of the Code of Virginia). The proposed regulation addresses retention requirements that do not conflict with the LOV requirements. The LOV requirements still apply, and the department declines to restate them here. Thus, the Department does not recommend adopting the proposed change.
28- 6VAC35-41-340.A.1. Face sheet. VDSS	Add an "and" after "date."	Thank you for your comment. The department recommends adopting the proposed change.
29- 6VAC35-41-340.A.2. Face sheet. VDSS	Delete the "and" at the end of the sentence.	Thank you for your comment. The department recommends adopting the proposed change.
30- 6VAC35-41-340.B and 340.C. Face sheet. VDSS	For flow of language, these two standards should be switched in order to have the changes made occur before discharge.	Thank you for your comment. The proposed regulation requires the information to be "updated whenever changes occur," which may be before or after discharge; e.g., forwarding address. Thus, the department does not recommend adopting the proposed change.
31- 6VAC35-41-400. Toilet facilities. RJDC	Paragraph B states, "There shall be toilet facilities available for resident use in all sleeping areas for each detention center constructed after January 1, 1998." Does this mean individual sleeping rooms should be equipped with a toilet and sink (i.e., wet rooms)? Paragraph C appears to be inconsistent with paragraph A. Paragraph A says "There shall be at least one toilet, one hand basin, and one shower or bathtub in each living unit." Paragraph C provides ratios of one to four.	Thank you for your comment. The department agrees that the language is duplicative and recommends clarifying amendments.
32- 6VAC35-41-430. Disposal of garbage	A third paragraph, "C" would probably be helpful to specifically address medical hazardous waste. It could read, "C. Medical hazardous	Thank you for your comment. The department recommends adopting the proposed change.

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and management of hazardous materials. RJDC	waste shall be collected and disposed of in a manner consistent with applicable laws and regulations."	
33-6VAC35-41-430. Disposal of garbage and management of hazardous materials. VA CURE	Recycling. There is a requirement for disposal of refuse in the proposed regulations. We suggest the DJJ Board add recycling as a requirement for staff and juveniles.	Thank you for your comment. The regulations do not prohibit recycling in the facilities and does not recommend mandating it in the proposed regulation. Such practices would be more appropriately addressed in procedures.
34-6VAC35-41-470.C. Animals on the premises. VDSS	"Reasonably" free is not measurable and will be difficult for inspectors and facilities to know when a citation will be issued for stray animals.	Thank you for your comment. The department recognizes that there is some subjectivity associated with "reasonably free." However, the current standards mandate absolutely free, which is not in the control of the facility administrators. This standard is intended to measure whether the facility is encouraging the presence or maintaining an environment consistent with having animals on the premises (not whether a stray animal crosses the property during an inspection). Accordingly, the department does not recommend adopting the proposed change.
35-6VAC35-41-520. Telephone access and emergency numbers. and 6VAC35-41-580. Telephone calls. MAJDC	The proposed regulations only provide emergency telephone access to staff and to residents away from the facility. To further provide protection to youth in the facilities, emergency, non-pay telephone access should be available to all youth 24 hours a day.	Thank you for your comment. Residents have access to telephones in accordance with section 580. Staff have access to a telephone at all times. Allowing 24/7 access is not consistent with all types of group homes covered in this regulation. Accordingly, the department does not recommend adopting the proposed regulation.
36-6VAC35-41-540. Weapons. RJDC	Tasers and stun guns should be included in the standard.	Thank you for your comment. The department believes that additional language should be added to ensure that the definition is not under inclusive.
37-6VAC35-41-560. Prohibited actions. #13, Involuntary use of pharmacological restraints.	Delete "involuntary." Residents cannot voluntarily request medication.	Thank you for your comment. The department recommends adopting the proposed change to reduce any confusion as to whether the use of pharmacological restraints to control behavior is prohibited.

Commenter	Comment	Agency response
<p>DJJ staff</p> <p>38-5VAC35-41-560. Prohibited actions.</p> <p>FAVY</p>	<p>Add "actual or perceived sexual orientation and gender identity and expression" to the non-discrimination clause for each facility.</p> <p>The Child Welfare League of America and Lambda Legal note that "Many young people who are lesbian, gay, bisexual, transgender or questioning their sexual orientation or gender identity ("LGBTQ") and in the custody of the juvenile justice and delinquency systems are unsafe in their placements" They go on to affirm that "LGBTQ youth should be placed in facilities that have LGBTQ-inclusive nondiscrimination policies and where qualified staff have been trained to protect and support LGBTQ youth."</p> <p>In Executive Directive 1 (2010), Governor McDonnell wrote: "The Virginia Human Rights Act recognizes the unlawfulness of conduct that violates any Virginia or federal statute or regulation governing discrimination against certain enumerated classes of persons. The Equal Protection Clause of the United States Constitution prohibits discrimination without a rational basis against any class of persons. Discrimination based on factors such as one's sexual orientation or parental status violates the Equal Protection Clause of the United States Constitution. Therefore, discrimination against enumerated classes of persons set forth in the Virginia Human Rights Act or discrimination against any class of persons without a rational basis is prohibited."</p> <p>Listing these additional categories will make it clear to staff, youth and families that harassment and discrimination of LGBTQ youth is illegal and will not be tolerated.</p>	<p>Thank you for your comment. The department recommends two changes to the nondiscrimination subdivision of this section. First, it recommends deleting the word "physical" before "disability" to ensure all disabled individuals are covered. Second, it recommends including "sexual orientation" as a factor by which residents may not be discriminated.* The group homes must equally and appropriately serve all juveniles ordered to it by the courts of the Commonwealth or admitted to the facility and must seek to ensure that all residents are subject to the same protections. Given the emphasis of such protection in the proposed PREA standards, the department supports its inclusion in the regulation. For additional information regarding the proposed PREA standards, please see the response to the first comment. * NOTE: The language in subdivision 16 has changed since originally approved by the Board, after first approved by the Board in June 2010, through the Executive Branch Review, it was determined that the proposed language exceeding the Board's rulemaking authority. On January 10, 2012, the Board approved alternative language. The alternative language is in the proposed draft.</p>
<p>39-6VAC35-41-570.J. Residents' mail.</p> <p>VDSS</p>	<p>Language is not clear. Who reviews annually and updates as needed? Should this be separate standard for annual review and update?</p>	<p>Thank you for your comment. The proposed regulation indicates that the review and update shall be in accordance with written procedure. Thus, the facilities have the flexibility to designate appropriate individuals to conduct the review. This is more appropriately addressed in procedures, and the department does</p>

Commenter	Comment	Agency response
		not recommend any changes to this section.
<p>40-6VAC35-41-590. Visitation.</p> <p>RJDC VA CURE</p>	<p>RJDC: At a minimum, should visitation be scheduled at least once a week, unless security demands, health concerns, or other emergencies make visitation difficult? The standard needs to give some guidance for the auditors.</p> <p>VA CURE: Visitation opportunities that include weekend and weekday/evening times should be required at all facilities.</p>	<p>Thank you for your comment. The department supports maintaining strong family relationships during any period of out-of-home placement and, except in rare occasions; i.e., H1N1, weather, visitation is held weekly (or more frequently) in all facilities. Setting the operational standards for visitation should be managed at the facility procedural level and not in regulation. Thus, the department does not recommend adopting the proposed change.</p>
<p>41-6VAC35-41-600. Contact with attorneys, courts, and law enforcement.</p> <p>MAJDC JustChildren</p>	<p>MAJDC: The proposed regulation requires proof that the attorney has been retained. This is a problem because generally an attorney and client have an initial meeting before the attorney is officially retained. The proposed regulation would prevent juveniles from initial consultations, retaining willing attorneys, and a guiding hand through the juvenile justice system.</p> <p>The definition of "legal representative" for the purposes of mail and contact with attorneys should be expanded to:</p> <p style="padding-left: 40px;">"For the purpose of this section a legal representative is defined as an attorney licensed to practice law in the Commonwealth of Virginia or admitted pro hac vice for a specific case or a paralegal, investigator, or law student or other representative from the attorney's office. Evidence that the attorney has been retained shall not be required prior to permitting access. A juvenile who wants to contact an attorney or other legal representative shall request and be provided assistance from DJJ staff at the facility."</p> <p>To require that youth have a retainer agreement with counsel before they can even see them is an undue burden on the youth's ability to gain the assistance of counsel in order to access the courts since youth will generally need to talk to counsel before they can decide to retain them</p>	<p>Thank you for your comment. The department recommends removing the last sentence in subsection A to avoid any unnecessary limitations.</p>

Commenter	Comment	Agency response
	<p>even if they are pro bono.</p> <p>JustChildren: Courts have recognized the rights that both youth and adult prisoners have to access the courts. While adult facilities have a number of ways they can assure meaningful access to the courts, including law libraries and other forms of assistance, in a juvenile setting we cannot expect children to serve as jailhouse lawyers.</p> <p>With regard to the requirement that attorneys present evidence that they have been retained prior to permitting access, we would like to make two points. First, the Virginia Department of Corrections does not require that a retainer be produced prior to the scheduling of a legal visit. Second, retainers are protected by attorney client confidentiality and are not to be shared outside of that relationship.</p> <p>While we appreciate DJJ's inclusion of this regulation, which allows youth access to counsel, we would recommend the following changes to insure that said access is appropriate and adequate.</p> <p>In 6VAC35-41 make the following amendments to Section A: "For the purpose of this section a legal representative is defined as an attorney licensed to practice law in the Commonwealth of Virginia or admitted pro hac vice for a specific case or a paralegal, investigator, or law student or other representative from the attorney's office."</p>	
<p>42-6VAC35-41-610.D. Personal necessities and hygiene. VDSS</p>	<p>Although the standard states "changed or cleaned at a minimum, once every seven days," there is no provision to ensure that the kids who need their items cleaned or changed more often (dirty, soiled, or odorous) will have the opportunity to have them cleaned or changed as necessary.</p>	<p>Thank you for your comment. The department acknowledges that there may be some confusion in reading the proposed provisions and recommends clarifying amendments.</p>
<p>43-6VAC35-41-650. Nutrition. RJDC</p>	<p>The American Correctional Association Standards state "Written policy, procedure, and practice require that at least three meals, of which two are hot, are provided at regular meal times during each 24-hour period, with no more than 14 hours between the evening meal and breakfast. Provided basic nutritional goals are</p>	<p>Thank you for your comment. The department is retaining the current regulatory requirement regarding timing of meals. Facilities may choose to serve meals earlier than indicated in the regulation (as these are minimum requirements).</p>

Commenter	Comment	Agency response
	<p>met, variations may be allowed based on weekend and holiday food service demands." (Standards for Juvenile Detention Facilities, Third Edition, 3-JDF-4A-13).</p>	<p>Accordingly, the department does not recommend adopting the proposed change.</p>
<p>44-6VAC35-41-650. Nutrition. VA CURE</p>	<p>The proposed regulation references meeting the minimum requirements of the U.S. Dietary Guidelines. Please revise to state that DJJ menus must exceed the minimum requirements. Also, please require that the Dietary Guidelines being used are for growing adolescents, not adults. Also, please require that daily menus meet the U.S. Center for Disease Control and Prevention's "5-a-Day" serving of fruits and vegetables.</p> <p>All juveniles at intake who are found to be obese must have a special health plan to help improve health and reduce weight.</p> <p>The weight of each juvenile should be monitored so that if a juvenile becomes obese while at a DJJ facility, a special health plan can be developed.</p>	<p>Thank you for your comment. The regulation accommodates special diets for weight gain, weight loss, and other special medical conditions. The federal guidelines are fluid and adopting specific menu provisions may result in this regulation being in conflict with that recommended by the USDA, CDC, or HHS. Thus, the department does not recommend adopting the proposed change.</p>
<p>45-6VAC35-41-660. School enrollment and study time. VA CURE</p>	<p>Retain the current requirement that residents be enrolled in school within five days. See: 6VAC35-51-920. Education.</p> <p>Do not make the proposed change that allows for a five business day delay to get a child enrolled in school, it is too long unless the state allows that length of time for parents to enroll children after relocations. At many facilities, school continues four quarters of the year. Also, the proposed regulation should provide that the Department of Correctional Education and DJJ have a process to enroll a juvenile should he or she arrive at a DJJ facility during a break. Please clarify which department is referred to as "facility staff" in the proposed regulation.</p>	<p>Thank you for your comment. Please note that each facility enrolls students in the appropriate educational program in the community operated by the local educational authority (LEA) and is regulated by the Department of Education (DOE). The LEA is subject to the compulsory school education laws. As the LEA and DOE are not subject to this regulation, the department does not recommend incorporating any requirements relating to educational programs and services in this regulation. Also, please note that having a blanket requirement for enrollment would be over inclusive as some residents have graduated from high school, have earned GEDs, or are above compulsory school age requirements.</p>
<p>46-6VAC35-41-760. Admission. or 6VAC35-41-770.</p>	<p>Complete health assessments should be done at intake.</p> <p>The child's legal guardian should be contacted and specifically asked about the child's medical</p>	<p>Thank you for your comment. A health assessment must be completed during intake. However, most of the information is obtained from the resident (with some information from</p>

Commenter	Comment	Agency response
Orientation. Harrington	history and condition within the first few hours of being detained (in case have medicines, etc.). This could also be addressed in 6VAC35-41-1200 (Health screenings at admission).	the CSUs). Parents are notified about the admission, and the facility may inquire about or the parent may provide important medical information. However, given the importance of having information on any special medical needs, the department recommends adding such an inquiry when contacting the parents.
47- 6VAC35-41-830. Operational procedures. DJJ staff	Move to Part 1, General Provisions.	Thank you for your comment. The department recommends moving this section to proposed new 145.
48- 6VAC35-41-830. Daily log. VDSS	The standards do not address security protocols for electronic records (computer records) such as unauthorized access, loss protection, unauthorized alteration, and back-up of system entries.	Thank you for your comment. Section 330 governs provisions for confidentiality for all records. The department recommends technical changes to section 330 in order to provide additional clarity.
49- 6VAC35-41-1200. Health screening at admission. VDSS	Remove reference to a form.	Thank you for your comment. The department recommends removing the reference to the form in order to provide facilities flexibility in the technical aspects of the format and components of the form.
50- 6VAC35-41-1260. First aid kits. RJDC	Should the health authority say what should and should not be in a First aid kit? ACA Standard 3-JDF-4C-28 states: "Written policy, procedure, and practice require that first aid kit(s) are available. The responsible physician approves the contents, number, location, and procedure for periodic inspection of the kit(s)."	Thank you for your comment. The department recommends adding a requirement that the kits contain an inventory of contents but declines to recommend the additional requirements as these would be more appropriately addressed in facility procedures.
51- 6VAC35-41-1280. Medication. VDSS	Remove reference to training curriculum in subsection F.	Thank you for the comment. The intent of referencing the requirements of the Department of Health's medication training curriculum is to have a fluid document that allows the regulation to mirror the current requirements of the Department of Health. As such, the department recommends removing the reference to a specific curriculum (both in the regulation and in the Documents Incorporated by Reference) and

Commenter	Comment	Agency response
		inserting language that would require regulated facilities to follow the current requirements of the Virginia Department of Health by cross-referencing the governing statutory authority.
52- 6VAC35-41- 1320.A.2 and 3. Physical restraint. VDSS	Suggest replacing "may" with "shall."	Thank you for your comment. The department recommends retaining the "may" in subdivision A(2) as the use of physical restraint is optional (residents may leave the facility) and changing the "may" to a "shall" in subdivision A(3) as that requirement is intended to be mandatory if psychical restraint is utilized.
53- 6VAC35-41- 1320.A.4 Physical restraint. VDSS	The standard does not fit well within this section. Suggest that language of 4 be moved to the definition section.	Thank you for your comment. This is the only section where the term "physical restraint" is used. The department does not recommend moving the definition but does recommend deleting "for the purpose of this section" as that may help the section make more sense.
54- 6VAC35-41-1330. Chemical agents. VDSS	Suggest wording replacement for clarity and enforcement. Replace "are prohibited" with "shall." Suggested language: "The use of pepper spray and other chemicals to manage resident behavior shall be prohibited."	Thank you for your comment. The intent of this section is to prohibit staff from using chemical agents to manage behavior. However, the facility does not control the actions of law enforcement or other individuals responding in the case of emergency. Accordingly, the department does not recommend adopting the proposed change.

All changes made in this regulatory action

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

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
10	Definitions. This section defines the following terms: -Annual (uses 13 month definition as previously adopted in the	The current definitions governing group homes/halfway houses are provided in 6VAC35-51-10 and 6VAC35-140-	The proposed section defines the terms used in the regulation, which are distinct to group homes/halfway houses or assume a specific meaning when applied

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	<p>Interdepartmental regulations).</p> <ul style="list-style-type: none"> -Board (of Juvenile Justice). -Case record/record (resident's information). -Contraband (unauthorized items). -Department (of Juvenile Justice). -Direct care staff (individuals responsible for the care of residents and security of the facility). -Direct supervision (working with residents while not in the presence of direct care staff). -Director (of the Department). -Emergency (unexpected events; examples provided). -Facility administrator (responsible for daily, on-site operation of facility). -Family-oriented group home (private home in which a juvenile resides after placement by a lawful placing agency). -Group home (home-like, juvenile residential facility, including halfway house). -Individual service plan/ service plan (goals and objectives for residents during commitment). -Juvenile residential facility/facility (group homes, halfway houses, independent living programs, and family-oriented group homes). -Living unit (where residents sleep and reside). -On duty (time when staff are responsible for the direct supervision of residents). -Parent/legal guardian 	<p>10.</p>	<p>in the current context.</p> <p>From the existing regulations the following changes were made: (1) Definitions were deleted because the terms are not unique (such as the definition of "day" or "therapy") or because the terms are not or are no longer used in the proposed regulation (such as the definition of "good character and reputation"). (2) Definitions used only once in the proposed regulation were moved to the applicable section, and definitions specific to volunteers and health care services were moved to the corresponding parts. (3) Definitions were modified to conform to changes in laws and other applicable regulations and to more appropriately reflect applicability in group homes/halfway houses. (4) Definitions were added for terms used in the proposed regulation (such as "direct care staff," "direct supervision," and "written").</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	<p>(includes biological, adoptive, court appointed, and delegated).</p> <ul style="list-style-type: none"> -Placement (moving resident of juvenile residential facility). -Placing agency (agency responsible for admission of resident to facility). -Premises (tract of land and structure of group home/halfway house). -Provider (person or entity legally responsible for the facility). -Regulatory authority (the board or the department). -Resident (individual committed and residing in a facility). -Rules of conduct (behavioral expectations and available sanctions). -Shelter care facility (facility with placement not anticipated to exceed 90 days). -Written (electronic or hard copy). 		
20	<p>Applicability: This section indicates which sections apply to group homes/halfway houses generally or certain types of facilities or programs specifically.</p>	<p>6VAC35-130-30 states the provisions of the regulation apply to the type of juvenile residential facility indicated.</p>	<p>The proposed section clarifies which parts apply to group homes/halfway houses generally or certain facilities or programs specifically.</p>
30	<p>Previous regulations terminated: This section provides that enactment of this Chapter will replace the current regulations governing juvenile residential facilities (6VAC35-51 and 6VAC35-140).</p>	<p>None.</p>	<p>The proposed section indicates the effect of enacting this Chapter on the current regulatory scheme. This Chapter will replace 6VAC35-51 and 6VAC35-140 relating to the certification of juvenile residential facilities.</p>
40	<p>Certification: Requires all facilities to (i) demonstrate compliance with the board's</p>	<p>6VAC35-20 governs the Board of Juvenile Justice's facilities'</p>	<p>The proposed section states that juvenile residential facilities are also subject to the board's</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	<p>Certification Regulation (6VAC35-20); (ii) maintain current certification demonstrating such compliance; (iii) retain documentation of such compliance for a minimum of three years; and (iv) post the record of certification. The section also has some language specific to the certification process.</p>	<p>certification process. 6VAC35-20 provides the general requirements for certification. It requires facilities to be in substantial compliance with the regulation and to comply with terms of licensure, the regulation, other applicable laws and regulation, and its procedures. It also requires some reporting to the regulatory authority and a procedure manual to be accessible to staff and details some responsibilities of the regulatory authority. 6VAC35-51-240 states that facilities with adult residents must comply with the standards and provide separate accommodations as required by the regulatory authority.</p>	<p>Certification Regulation (6VAC35-20) and must comply with this Chapter and the Certification Regulation, maintain documentation of compliance, and keep a current certificate of compliance. The proposed regulation focuses solely on the responsibilities of the facility and does not address the responsibilities of the regulatory authority. By including a cross-reference to the Certification Regulation, this section clearly states the applicability and importance of complying with both this Chapter and the Certification Regulation.</p>
50	<p>Age of residents: This section sets forth the circumstances in which a resident above the age approved for licensure may be retained at the facility.</p>	<p>6VAC35-51-240 states that facilities with adult residents must comply with the standards and provide separate accommodations as required by the regulatory authority.</p>	<p>The proposed section makes clear the limited circumstances under which a resident may be retained at a facility after the resident "ages out" of the facility (when for the purpose of completing a program, with discharge planning in place).</p>
60	<p>Relationship to the regulatory authority: Requires the facility to provide the regulatory authority with any reports or records necessary to establish compliance with this Chapter and inform it of any change in operation that would affect certification.</p>	<p>6VAC35-20 governs the Board of Juvenile Justice's facilities' certification process. 6VAC35-20 provides the general requirements for certification. It requires facilities to be in substantial compliance with the regulation and to comply with terms of licensure, the regulation, other applicable laws and</p>	<p>The proposed section clarifies the necessity of facilities to work with the regulatory authority in the certification process.</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
		<p>regulation, and its procedures. It also requires some reporting to the regulatory authority and a procedure manual to be accessible to staff and details some responsibilities of the regulatory authority.</p> <p>6VAC35-51-110 requires facilities to follow the terms of the certification, to request changes in operation in advance, and to not implement any change without prior approval.</p> <p>6VAC35-51-230 requires facilities provide appropriate documentation to the regulatory authority and for any change in administration to be reported within five working days.</p>	
70	<p>Relationship with the department: Requires the facility to notify the director of any significant change in administrative structure and report any lawsuits or settlements that may be related to the health and safety of residents.</p>	<p>See the description of 6VAC35-51-70 above.</p>	<p>The proposed section clarifies what information must be reported to the department.</p>
80	<p>Variations: This section authorizes a facility administrator to seek a variance in accordance with the board's Certification Regulation (6VAC35-20) and prohibits implementation of a variance prior to obtaining the approval of the board.</p>	<p>6VAC35-51-150 sets three criteria for the issuance of the variance. It also states that the variance must be approved prior to implementation.</p>	<p>The proposed section allows facilities to seek a variance to a regulatory requirement (under the conditions and provisions of the board's Certification Regulation). This section recognizes that special circumstances may warrant variances from certain provisions for specific facilities.</p>
90	<p>Serious incident reports: Requires certain serious incidents, accidents, and illnesses to be reported to</p>	<p>6VAC35-51-1030 requires serious incidents to be reported to the placing agency and the</p>	<p>The proposed section requires the facilities to report certain serious incidents to the director, parents, and supervising CSU. It</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	<p>the director, a resident's parent/legal guardian, and supervising agency within 24 hours. Such reports must be made without undue delay if the incident involves the death of a resident. And in such instances, all residents, parents, or legal guardians should be notified if such notice would not violate the requirements of confidentiality or impede prosecution of any case. Also requires documentation of such incidents and required reporting.</p>	<p>parent/guardian within 24 hours and serious illness or injuries to be reported to the regulatory authority within 24 hours. It lists components of the required documentation.</p>	<p>also contains documentation requirements, including noting in the resident's record, but allows flexibility as to how the documentation is retained. It also cross-references reporting child abuse or neglect (section 100) so that all reports are done appropriately.</p>
100	<p>Suspected child abuse or neglect: Requires procedures for handling, reporting, and cooperating with investigations of suspected child abuse and neglect. Also requires reporting and documentation of such cases to be done in accordance with the requirements for serious incidents in section 90.</p>	<p>Section 63.2-1509 of the Code of Virginia mandates the reporting of any suspected child abuse or neglect by staff in children's residential facilities. 6VAC35-51-1040 requires procedures for handling, reporting, and documenting CPS allegations.</p>	<p>The proposed section requires reporting of suspected child abuse or neglect in accordance with the governing statute. It also requires facilities to follow procedures reporting, handling, and documenting such cases. It does allow flexibility as to how the documentation is retained (under the notification and documentation requirements for serious incident reports in section 90 and defers to procedures as long as it is noted in the resident's record).</p>
105	<p>Reporting criminal activity: Requires staff to report any criminal activity by staff or residents and the facility administrator to report such activity as required by procedures. It further requires staff to cooperate in any investigations.</p>	<p>6VAC35-140-130 requires facilities to mandate staff report all known criminal activities by staff and residents.</p>	<p>The proposed section clarifies the responsibilities of the staff and facility administrator regarding reporting criminal activity.</p>
110	<p>Grievance procedure: Requires the facility administrator to ensure compliance with the department's grievance</p>	<p>6VAC35-51-1050 requires procedures governing grievances and lists required components.</p>	<p>The proposed section, consistent with current regulatory requirements, requires facilities to follow certain specific procedures relating to the ability</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	<p>procedure. It also specifies certain requirements of the procedure, orientation of the residents to the procedure, and cooperation in handling any complaints.</p>	<p>6VAC35-140-70 requires residents to be oriented to and have continuing access to a grievance procedure. It requires the procedure to provide for resident participation, documentations, timely responses, one level of appeal, administrative review, protection from reprisal, emergency hearings, and document retention.</p>	<p>of residents to file grievances while at a facility. It includes the existing requirement that such procedures shall be posted in an area accessible to the parents and the requirement for residents to be orientated to the procedures and for the procedures to be posted in an area accessible to residents.</p>
120	<p>Responsibility of the provider or governing authority: Requires the governing body or authority of the group homes/halfway houses to be identified and for the governing authority to appoint a facility administrator. Also requires the facility to have a "decision-making" plan, which includes an organizational chart and has the requirement that a staff person with the appropriate qualifications for facility administrator be identified to assume such duties when needed. Also requires a (i) statement of purpose, population, and services and (ii) program/service effectiveness/improvement program.</p>	<p>6VAC35-51-170 requires the identification of the entity responsible for establishing compliance and any person or entity to whom legal duties are delegated. 6VAC35-51-180 requires the appointment of a facility administrator, a written decision-making plan, a statement of the facility's objectives and target population, and quality control procedures.</p>	<p>The proposed section, consistent with the current regulatory scheme, details certain requirements of the governing authority and the facility administrator dealing with the overall functioning of the facility.</p>
130	<p>Insurance: Requires documentation of appropriate liability and vehicle insurance. Also requires staff who use personal vehicles for official business to be informed of the applicable insurance requirements and provide documentation of such.</p>	<p>6VAC35-51-200 requires facilities to have liability insurance and provide documentation of vehicle insurance (if used to transport residents). Also requires staff handling funds to be bonded/indemnified. 6VAC35-140-160</p>	<p>The proposed section streamlines the provisions relating to insurance and retains the major substantive components.</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
		requires liability insurance for employees, volunteers, and the premises. It also requires vehicle insurance for facility vehicles and staff to be given notice of the need to insure a personal vehicle used for work.	
140	Participation of residents in human research: Requires the facility's governing authority to approve procedures regarding the use of residents as subjects of human research. It contains a provision regarding the confidentiality of resident information and records and allows the facility to require progress reports and a final report of the research.	6VAC35-51-660 requires procedures for resident participation in human research.	The proposed section clarifies the responsibilities of the facility should it chose to have residents as subjects of human research.
145	Operational procedures: Requires operational procedures to be accessible to all staff.	6VAC35-140-760 requires JCCs to maintain institutional operating procedures that are consistent with standard operating procedures.	The proposed section is consistent with the current regulatory provisions.
150	Job descriptions: Requires a written job description for each position in the facility with four required elements. Also requires that the job description be provided to the employee prior to assuming the position duties.	6VAC35-51-280 requires job descriptions for each position.	The proposed section is consistent with the current regulatory requirements.
160	Qualifications: Requires facilities to follow the qualification requirements of the locality, the governing authority, or DHRM. Also requires documentation of contractual agreements or expertise of special service providers.	6VAC35-51-270 requires position qualifications to be established and DHRM to serve as the default for qualifications absent one set by the provider. It also requires qualified and procedurally aware employees and	The proposed section removes provisions from the current regulatory scheme that are not applicable to facilities regulated by the board and clarifies that applicants must be subject to predetermined qualification requirements.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
		contractors to maintain sufficient qualifications for the services provided. 6VAC35-51-630 requires facilities with contractors who provide educational, counseling, psychological, medical, or other services to show proof of contractual agreements or staff expertise.	
165	Employee tuberculosis screening and follow-up: Requires staff to have an up-to-date TB screening before starting work at facilities. Also requires subsequent screenings under certain circumstances and requires all screenings, prevention, and treatment to be conducted in accordance with the requirements of the Division of TB Control at the Virginia Department of Health (VDH) and federal requirements.	6VAC35-51-250 requires health information to be maintained on employees and residents in all facilities. It also requires TB testing and subsequent TB evaluations.	The proposed section allows flexibility in practice in order to conform with the recommendations and requirements of the Division of TB Control at the Virginia Department of Health (VDH) and federal requirements.
170	Physical examination: Requires staff to have a pre-employment physical if the position requires a particular set of physical abilities.	6VAC35-140-270 requires pre-employment physicals when a position requires a particular set of physical abilities. It also allows for annual re-examinations.	The proposed section is consistent with the current regulatory requirements.
180	Employee and volunteer background checks: Requires background checks to be performed, in accordance with § 63.2-1726 of the Code of Virginia for staff prior to working alone with residents. Also requires procedures for the supervision of non-employee persons who have contact with residents.	Sections 66-24 and 63.2-1726 of the Code of Virginia require background checks on all staff in children's residential facilities prior to such staff working alone with residents. 6VAC35-140-260 requires background checks to be completed on all staff who work alone with residents.	The proposed section is changed in accordance with recent statutory changes (Chapter 873 of the 2008 Acts of the General Assembly) and a 2008 variance to the applicable regulation. This section allows the conditional hire of employees pending fingerprint results if the individual is informed such employment is contingent upon the successful completion of the background check and if that

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
			individual is not allowed to be alone with residents and is supervised by staff whose background checks are completed when working with residents pending return of the fingerprint results.
190	Required initial orientation: Requires all employees to be oriented on eight components specific to the facility before their eighth work day at the facility and direct care staff to be oriented to an additional eight components before working unsupervised with residents. It cross-references the volunteer orientation section.	6VAC35-140-280 requires initial orientation in accordance with the job description and an annual training plan. It requires orientation, prior to assuming job duties, in the program, rules, residents' rights, disciplinary procedures, emergency procedures, and documentation requirements.	The proposed section creates a separate orientation section with specific requirements for all employees. Facility staff currently receive an extensive orientation during their first week of work. This section merely clarifies the requirements on which staff are currently being oriented.
200	Required initial training: Requires (1) all employees to have training necessary to be competent in their positions; (2) contractors to be trained to perform their positions in such facilities; (3) direct care staff to have 40 hours of initial training including training in 13 specific areas; and (4) staff who administer medications to complete required trainings prior to administering medication. It requires CPR/first aid training as applicable to duties. It allows contract providers to have credentials to satisfy the training requirement (although they must be oriented per the previous section and cross-references the volunteer training section).	6VAC35-51-310(A) requires initial training (1) in seven days for behavior management procedures; (2) within 14 days before being alone supervising residents for emergency planning issues; and (3) within 30 days in CPS, reporting, maintaining relationships, suicide prevention, standard precautions, good neighbor, and siting. It addresses the medication training program and the quality improvement plan. It also requires enrollment in CPR/first aid classes within 30 days. 6VAC35-140-280 requires direct care staff to be trained in the rules of conduct for residents, rationale for the rules, and applicable sanctions.	The proposed section pulls together many current regulatory provisions. In the current scheme, there are many different deadlines for completing training (seven, 14, and 30 days, and before working with children). The timing for training requirements is streamlined to require all trainings to be completed for direct care staff prior to being responsible for the supervision of residents. Direct care staff currently undergo extensive initial training, which already incorporates the required components of this section.
210	Retraining: Requires all	6VAC35-51-310(B)	The proposed section clearly

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	<p>staff to receive retraining sufficient to meet any professional development needs, with direct care staff to have 40 hours of retraining annually. All staff are required to be retrained in emergency procedures. Direct care staff must have retraining in five specific areas. Staff who administer medications must receive annual refresher training on the administration of medication. It requires CPR/first aid retraining as required by the position. This section allows contract providers to have credentials to satisfy the training requirement and specifies that failure to be properly retrained prohibits staff from working directly with residents.</p>	<p>requires staff, volunteers, and contractors to be retrained annually in emergency procedures; medication administrators to undergo medication administration retraining; direct care staff to undergo retraining in behavior management techniques; and all staff to be retrained in CPS reporting, maintaining relationships, and suicide prevention. Subsection (C) requires all full-time staff to undergo 15 additional hours of training. Subsection (D) requires procedures for other staff training, and (E) requires retraining based on needs and competencies. 6VAC35-140-280 requires 40 hours of training annually and retraining in the regulation, suicide prevention, special residents' medical needs, health screenings, and mechanical restraints.</p>	<p>details the retraining requirements. It retains the required hours of annual training from the current regulations.</p>
220	<p>Written personnel procedures: Requires written personnel procedures to be accessible to staff.</p>	<p>6VAC35-51-290 requires each facility to have provider-approved personnel policies accessible to staff. It further requires the facilities to implement procedures to ensure employees are qualified for the positions.</p>	<p>The proposed section is consistent with the current regulatory requirements.</p>
230	<p>Code of ethics: Requires facilities to have standards of conduct available to all employees.</p>	<p>6VAC35-140-275 requires all facilities to have a code of ethics that requires a provision prohibiting employees</p>	<p>Current regulations and procedures require a code of ethics. The proposed section deletes the specific requirement that the standards of conduct</p>

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		from using their official position to secure privileges or engaging in activities that constitute conflicts of interest.	include a prohibition of using one's position for personal gain. This requirement is procedural and currently contained in the department's code of ethics.
250	Notification of change in driver's license status: Requires staff who may transport residents to maintain a valid driver's license and report any change in license status to the facility administrator or designee.	6VAC35-51-1010, in part, requires any staff involved in the transportation of residents to comply with laws relating to the licensure of driving.	The proposed section reiterates the requirement for staff who transport residents to be appropriately licensed. It adds an affirmative obligation for staff members to report any applicable change in licensure status.
260	Physical or mental health of personnel: Requires staff who are a risk to residents or others to be removed from the direct care or supervision of residents. It allows the facility to require an evaluation prior to that individual returning to direct care or supervision duties. Also requires records to be confidentially and separately maintained.	6VAC35-51-260 allows a facility to require an employee to undergo an examination if residents' safety is at risk and, if a condition is indicated, to remove the employee from contact with residents.	The proposed section is modified for consistency with ADAA.
270	Definition of volunteers or interns: This section defines volunteers and interns.	6VAC35-51-10 and 6VAC35-140-10 define volunteers.	The proposed section modifies the definition to include interns, as applicable provisions apply equally to volunteers and interns.
280	Selection and duties of volunteers and interns: Requires facilities to follow procedures regarding the selection and use of volunteers. The procedures must contain a provision for evaluating persons wishing to associate with residents. Also requires volunteers to have the appropriate qualifications for any services provided; requires any volunteer responsibilities to be clearly defined in writing; and prohibits volunteers for	6VAC35-51-400 requires procedures for the selection and use of volunteers; prohibits volunteers from providing basic services; requires the responsibilities to be clearly defined in writing; and requires all volunteers/interns to be qualified for any services rendered. 6VAC35-51-950(B) requires facilities to implement procedures for evaluating	The proposed section consolidates the responsibilities regarding the selection and use of volunteers. It is consistent with current regulatory requirements.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	being responsible for the duties of direct care staff.	groups/individuals to associate with residents and whether such association is in the residents' best interests.	
290	Volunteer and intern background checks: Requires individuals who volunteer on a regular basis or intern in the facility or individuals designated as leaders of volunteer groups to undergo applicable background checks and such checks to be documented. Also requires facilities to implement procedures for supervising volunteers who have not had background checks who have contact with residents.	Sections 66-24 and 63.2-1726 of the Code of Virginia require background checks on all individuals who volunteer on a regular basis and will be alone with residents. 6VAC35-51-300 requires personnel records to retain proof of the completed background checks. 6VAC35-140-260 requires background checks on personnel.	The proposed section requires background checks on volunteers and interns consistent with the requirements of the Code of Virginia and applicable regulations.
300	Volunteer and intern orientation and training: Requires certain volunteers and interns to be oriented on eight items and trained, within 30 days of their start date, on procedures applicable to their duties and responsibilities in the event of a facility evacuation.	6VAC35-51-310 and 6VAC35-140-280 require certain trainings/orientation for volunteers. 6VAC35-51-1060 requires volunteers to be trained in emergency procedures.	The proposed section extracts the orientation and training requirements for volunteers from the existing regulatory structure and consolidates them in one section.
310	Personnel records: Requires personnel records for each employee or volunteer/intern on whom background checks are required. It lists nine necessary parts of the record and requires health records to be maintained separately. It also specifies that volunteer and contract service providers' records may contain only the record of compliance with any required background	6VAC35-51-300 requires updated personnel records (including separate health records). It lists the specific components.	This section is consistent with the current regulatory scheme.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	checks.		
330	Maintenance of residents' records: Requires a case record and a separate health care record to be maintained for each resident. The records are to be kept confidential and released only in accordance with applicable Code sections. A procedure shall govern the maintenance of the records and shall address specific requirements regarding confidentiality.	6VAC35-51-640 requires a case record and a separate health record for each resident to be maintained uniformly and confidentially with governing procedures (components listed). The face sheet must be retained permanently.	The proposed section is consistent with current regulatory requirements. It also no longer requires records to be maintained in metal containers (as a cabinet or container that protects against fire and flood may now be of a substance other than metal). It also cross-references the statute governing confidentiality of residents' records in order to provide a reminder to facilities that any distribution of the records must be in accordance with these statutes.
340	Face sheet: Requires a face sheet to be maintained on each resident. It lists specific components on the document and requires it to be maintained as changes occur.	6VAC35-51-700 requires a face sheet and details specific components.	The proposed section removes some of the procedural language and requirements to maintain information on the face sheet that is already, and more appropriately, maintained elsewhere (thus reducing duplicity in practice). The face sheets are no longer required to be maintained permanently.
350	Buildings and inspections: Requires new construction, major renovations, and temporary structures to be inspected and approved by appropriate building officials (as documented by a current certificate of occupancy). It requires facilities to maintain documentation of annual fire inspections (as required by the building code). Also requires annual inspections of sanitation, sewage, water, swimming pools, and food systems.	6VAC35-51-420 requires a certificate of occupancy for all buildings; annual fire inspections; annual inspections of sanitation, sewer, water, food service operations, and swimming pools; the buildings to be suitable to the designated purposes; and any building plans to be approved by the regulatory authority.	The proposed section clarifies what the facilities' responsibilities are regarding annual inspections. The current regulatory scheme requires fire inspections to be conducted annually (defined as once every 13 months). However, facilities do not conduct the fire inspections. For group homes/halfway houses, these inspections are conducted by the local fire inspectors who operate within their own time frames and procedures for inspecting residential facilities. As such inspections may exceed the 13-month maximum contained in the current regulation, the proposed regulation adds some flexibility for the facilities by

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
			requiring them to attempt to schedule an "annual" inspection and to (1) maintain documentation of the current certification and (2) document attempts to schedule inspections (and any necessary follow-up seeking inspections) should such inspections not be completed within the 13-month period.
360	Equipment and systems inspections and maintenance: Requires safety, emergency, and communications equipment and systems to be tested and maintained according to the manufacturer's requirements or procedure (but must be done at least quarterly). If such a system is defective, facilities must immediately repair, remove, or replace the defective equipment.	6VAC35-140-310 requires the inspection of safety, emergency, and communications systems at least quarterly and more frequently if required by the manufacturer's instructions. 6VAC35-140-320 requires facilities to take immediate steps to repair or replace defective equipment.	The proposed section is consistent with the current regulatory scheme. It provides additional guidance by having the facility administrator maintain a listing of all safety, emergency, and communications equipment and systems subject to the requirements of this section.
370	Heating and cooling systems and ventilation: Requires heat to be distributed to all rooms so that the temperature is not below 68°F. Also requires rooms to be ventilated when temperatures exceed 80°F.	6VAC35-51-430 requires heat to be evenly distributed and not be lower than 68°F, natural or mechanical ventilation to the outside in all rooms, and air-conditioning/fans in all rooms where temperatures exceed 80°F.	The proposed section is consistent with the current regulatory provision.
380	Lighting: Requires sleeping and activity areas to have natural lighting; lighting to be sufficient for the activities being performed; and night lighting to be sufficient to observe residents. Also requires facilities to have plans for lighting in the case of an emergency and outside entrances and parking areas to be lighted.	6VAC35-51-440 requires electric lighting to be sufficient for activities being performed, continuous at night, and in outside entrances and parking areas. It also requires flashlights to be available for all staff at night. 6VAC35-140-330 requires natural lighting in sleeping/activity areas	The proposed section amends the provision regarding lighting in the case of an emergency and requires a plan for alternative lighting (rather than flashlights for each direct care staff member).

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
		and lighting at night to be sufficient to observe the residents.	
390	Plumbing and water supply; temperature: Requires plumbing to be operational, an adequate supply of hot and cold running water, and precautions to be taken to avoid scalding by hot water.	6VAC35-51-450 requires plumbing to be maintained in good operating condition, an adequate supply of running water, and precautions to be taken to prevent scalding (water temperature between 100-120°F).	The proposed section is consistent with the current regulatory provision.
400	Toilet facilities: Requires one toilet, sink, and shower in each living unit and for a specific number of residents and staff; one bathtub in the facility; one mirror in each room with sinks; and privacy provisions in bathrooms not designated for individual use.	6VAC35-51-460 sets the requirements for the number of toilets, sinks, showers, and tubs in a facility.	The proposed section is consistent with the current regulatory provision.
410	Sleeping areas: Requires separate sleeping areas for males and females; beds to be a certain distance apart; mattresses to be fire retardant; and sleeping areas to comply with square footage requirements.	6VAC35-51-480 requires, in part, separate same-sex sleeping areas; no more than four residents to a room (except if allowed by the board in JCCs); three feet between beds; specific square footage requirements for bedrooms; and sleeping areas that are conducive to sleep and rest. 6VAC35-51-500 requires provisions for privacy from routine sight supervision, video, and audio monitoring by permission of regulatory authority.	The proposed section addresses issues specific to resident sleeping areas. It retains the provision regarding no more than four residents to a room. It does not require the sleeping area to be conducive to sleep or rest.
420	Furnishings: Requires furnishings to be safe, clean, and suitable for use.	6VAC35-51-590(A) requires all furnishings and equipment to be safe, clean, and suitable.	The proposed section is consistent with the current regulatory provision.
430	Disposal of garbage and	6VAC35-51-600(B)	The proposed section is

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	management of hazardous materials: Requires facilities to provide for the collection and legal disposal of all garbage and waste materials, including toxic and medical materials.	requires facilities to provide for the legal disposal of waste.	consistent with the current regulatory provision.
440	Smoking prohibitions: Prohibits smoking in living areas and areas where residents participate in programs.	6VAC35-51-490 prohibits smoking in living areas and areas where residents participate in programs.	The proposed section is consistent with current regulations.
450	Space utilization: Space utilization: Requires each facility to have space, which may be used interchangeably, for specific activities, including indoor and outside recreation, kitchen and dining, laundry, storage, visiting, administrative activities, educational programming, and medical practice.	6VAC35-51-510 requires group homes to have a living room with a "home-like" environment and all facilities to have indoor recreation space with appropriate materials and, if more than 13 residents, that space must be separate from the living room. 6VAC35-51-530(B) requires adequate kitchen facilities. 6VAC35-51-540 requires laundry areas, if done at the facility. 6VAC35-51-550 requires storage space. 6VAC35-51-570 requires office space for administrative activities. 6VAC35-51-580(C) requires outdoor recreation space. 6VAC35-140-90 requires residential facilities to have a designated visiting area. 6VAC35-140-100 requires facilities that operate school programs to provide school classrooms. 6VAC35-51-580, in part, requires all facilities to	The proposed section consolidates numerous existing regulations. It does not contain a requirement for school classrooms.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
		have an outdoor recreation area.	
460	Maintenance of the buildings and grounds: Requires all buildings and grounds to be safe, maintained, and reasonably free of clutter, rubbish, foul odors, pests, and vermin.	6VAC35-51-580, in part, requires the buildings and grounds to be maintained. 6VAC35-51-600(A) and (C) require all buildings to be well-ventilated and free of odors, flies, and vermin.	The proposed section is consistent with the current regulatory sections.
470	Animals on the premises: Requires any animals housed at the facility to have clean sleeping areas and adequate food and water and to be housed separate from sleeping and activity areas and the water supply. Any animals must be up to date on any required testing and inoculations. The premises should be kept free of stray animals.	6VAC35-51-610 requires animals maintained on the premises to be housed away from certain areas, provided clean quarters and adequate food/water, and tested/licensed. It also requires the premises to be free of stray animals.	The proposed section is consistent with the current regulatory provisions.
480	Fire prevention plan: Requires a fire prevention plan that provides for adequate fire protection service.	6VAC35-140-340(A) requires each facility to have a fire prevention plan that provides for adequate fire protection service.	The proposed section is consistent with the current regulatory provisions.
490	Emergency and evacuation procedures: Requires a fire prevention plan and an emergency preparedness and response plan, which is reviewed annually, with six different components, including required procedures. It requires all employees to be trained and prepared to implement the plan; volunteers and contractors to be trained in their responsibilities in implementing the evacuation plan; and residents to be informed of their responsibilities in implementing emergency	6VAC35-51-480 requires, in part, special egress for physically handicapped residents. 6VAC35-51-1060 lists required components of each facility's emergency preparedness and response plan and mandates training, orientation, notice, drills, and review/monitoring. 6VAC35-140-340(A) requires each facility to have a fire prevention plan that provides for adequate fire protection service.	All facilities currently have comprehensive emergency and evacuation plans. The proposed section is consistent with such plans, removes some procedural language, and adapts the responsibilities of residents, volunteers, and contractors to apply in the facilities.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	<p>and evacuation procedures. Also requires notification to parents, the director, and the regulatory authority within 72 hours after the incident is stabilized; evacuation routes to be posted; evacuation drills to be conducted and documented; and a designated employee to ensure the plan and drill requirements are met.</p>		
500	<p>Contraband: Requires procedures for the control, detection, and disposition of contraband.</p>	<p>6VAC35-140-120 requires facilities to have procedures for the control, detection, and disposition of contraband.</p>	<p>The proposed section is consistent with current regulations.</p>
510	<p>Searches of residents: Requires procedures to govern all searches in applicable group homes/halfway houses. It details specific required components of general procedures and specific procedures for strip and body cavity searches.</p>	<p>6VAC35-51-850 prohibits strip searches unless allowed by other regulations or by court order; requires procedures if patdown searches are conducted; and lists required components of patdown procedures. 6VAC35-140-590 requires procedures limiting searches to the minimum amount of touching necessary and restricting who may perform body cavity and strip searches.</p>	<p>The proposed section clarifies the parameters and requirements for the searches of residents.</p>
520	<p>Telephone access and emergency numbers: Requires there to be one nonpay telephone in all areas where residents sleep or participate in activities. It requires an emergency contact number for staff. Also requires an emergency telephone number to be provided to the resident and the person responsible for the care of the resident</p>	<p>6VAC35-51-590(B) requires a telephone accessible to staff. 6VAC35-51-840 requires an emergency telephone number where staff may be reached at all times and for residents away from the facility to be provided with an emergency phone number.</p>	<p>The proposed section clarifies when an emergency number must be provided to the resident and responsible adults. It now requires a number to be provided to residents and the responsible party when a resident leaves the facility in the absence of staff or police and removes the existing requirement to maintain an emergency number to contact staff.</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	when the resident is away from the facility and not under the supervision of direct care staff or law enforcement.		
530	Internet access: Requires facilities to have procedures governing use if the residents have access to the internet.	None.	The proposed section is new and requires procedures if residents have access to the internet.
540	Weapons: Prohibits weapons on the premises except in the possession of a law-enforcement officer in the course of his duties.	6VAC35-51-220 requires procedures for the possession of firearms that must restrict use except if in possession of security/law enforcement, locked, or used by a resident with permission.	The proposed section clarifies when and how weapons may be on the premises by prohibiting them generally with one exception for law enforcement.
550	Transportation: Requires each facility to have transportation available for routine and emergency transportation; written safety rules for the transportation of residents and the use and maintenance of vehicles; and a procedure for the verification of appropriate licensure status for staff who transport residents.	6VAC35-51-1010(A) and (B) require transportation of residents to be done in accordance with applicable laws and for each facility to have safety rules for transportation and, in subsection (C), for the maintenance of vehicles. 6VAC35-140-140 requires the facility to have transportation available for routine and emergency transportation.	The proposed section is consistent with the current regulatory provisions.
560	Prohibited actions: This section lists 17 specific actions prohibited in the facilities with a broad statement that the Constitution must be followed.	6VAC35-51-880 lists 13 acts that are prohibited in all facilities. 6VAC35-140-50 requires procedures mandating nondiscrimination, equal programming, reasonable accommodation for residents with disabilities, and prohibiting cruel and unusual punishment.	The proposed section clarifies the actions prohibited in group homes/halfway houses; adds nondiscrimination and use of pharmacological or mechanical restraints to this section. It contains a broad statement reminder that the list is not exhaustive and any constitutionally prohibited actions are also prohibited.
570	Residents' mail: This section details the specific circumstances and manner in which residents' mail may	6VAC35-140-75 details circumstances when mail may be read, censored, or rejected.	The proposed section contains some clarifying changes and is consistent with the current regulatory provisions.

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	<p>be delayed, reviewed, or withheld. It differentiates between legal and nonlegal mainly in its requirements. It also contains requirements regarding outgoing mail, access to postage, and mail received after a resident has left the facility.</p>		
580	<p>Telephone calls: Requires telephone calls to be permitted in accordance with procedures that account for facilities' needs and resident behavior.</p>	<p>6VAC35-140-80 requires facilities to allow residents to have reasonable access to a telephone.</p>	<p>The proposed section is consistent with existing regulations.</p>
590	<p>Visitation: Requires residents to have reasonable access to visitation with immediate family members and legal guardians. It requires visitation procedures that account for facility needs, resident and visitor behaviors, and a focus on strong family and community relationships. Also requires the procedure to be sent to the parent by the end of the next business day after admission.</p>	<p>6VAC35-51-990 requires procedures for flexible visitation unless governed by other regulations. It also sets time frames in which copies of the visitation procedure should be provided to the parents/guardians. 6VAC35-51-1000 requires written permission of the resident's family prior to any visit at the homes of staff. 6VAC35-140-90 requires visitation consistent with procedures in a designated visiting area with the ability for residents and visitors to have physical contact.</p>	<p>The proposed section clarifies the facilities' responsibilities relating to visitation. It contains language that residents have a general right to visitation subject to reasonable limitations. From the current regulatory scheme, it changes the requirement to mail copies of the visitation procedure from 24 hours after admission to the end of the next business day after admission.</p>
600	<p>Contact with attorneys, courts, and law enforcement: Requires facilities to allow residents to have uncensored, confidential communications with their attorneys, subject to reasonable restrictions; prohibits denial of access to</p>	<p>6VAC35-140-570 requires secure facilities to follow procedures for obtaining and documenting a resident's consent prior to questioning by the police. It also prohibits staff from playing "any role" in allowing contacts with</p>	<p>The proposed section adopts the major substantive components of the current regulation, which applies only to secure facilities. It also adds parts relating to contact with attorneys and courts (both of which are constitutionally protected).</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	the courts; and requires procedures for when a resident consents to questioning by law enforcement that prohibits staff from coercing a resident's decision.	police.	
610	Personal necessities and hygiene: Requires facilities to provide residents with four items of personal necessity at intake. The items must be clean and in good repair upon issuance and must be replenished as needed. Also requires linens to be changed or cleaned with bleach every seven days and blankets to be cleaned or changed as needed. Also requires staff to promote good personal hygiene by monitoring and supervising hygiene practices.	6VAC35-51-470 requires an adequate supply of personal necessities to be available to residents; washcloths and towels to be cleaned weekly; and incontinent residents to have special provisions. 6VAC35-51-480 requires, in part, clean mattresses, pillows, blankets, and linens; linens to be cleaned weekly.	The proposed section is consistent with current regulations.
620	Showers: Requires showers to be afforded daily except, conditionally, in drought conditions.	6VAC35-140-300 requires facilities to give residents the opportunity to shower daily.	The proposed section adds an exception when drought conditions exist assuming any alternative plan is approved by the local health authority.
630	Clothing: Requires residents to be provided with an adequate supply of clothing, similar to those worn in the community and which the resident has the opportunity to select. It also allows the resident to take the clothing upon discharge.	6VAC35-51-960 requires provisions to be made for resident clothing; requires residents of group homes to have age- and community-appropriate clothing; allows residents to participate in the selection of the clothes; and requires residents to be allowed to take personal clothing upon release/discharge.	This section is consistent with current regulations.
640	Residents' privacy: Requires residents to have privacy from routine sight supervision by staff of the opposite sex when the	6VAC35-51-500 requires provisions for privacy from routine sight supervision, video, and audio monitoring by	This section is consistent with current regulations.

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	resident is bathing, dressing, or conducting toilet activities.	permission of regulatory authority.	
650	Nutrition: Requires facilities to provide residents with three nutritionally balanced meals daily. It allows special diets or alternative dietary schedules when ordered by a doctor or when necessary due to the residents' religious practices.	6VAC35-51-820 requires each facility to provide a nutritious daily diet, keep menus, provide special diets if ordered or religiously mandated, prohibit staff from eating other food in front of residents, limit the time between meals, provide earlier meals if necessary, and obtain approval to extend time between meals on evenings and weekends.	The proposed section is generally consistent with the current regulatory provisions. It amends the provision regarding the maximum duration between meals on weekends and holidays and allows an extension of time between the evening and morning meal if authorized by the facility administrator. (Under the current scheme, this extension could be authorized by the department, which has never denied a request.)
660	School enrollment and study time: Requires facilities to take reasonable steps to enroll students within five business days of admission and to implement procedures to ensure each resident has adequate study time.	6VAC35-51-920 requires residents to be enrolled in school within five days of admission and for providers to provide certain services related thereto. It also requires study time.	The proposed section was amended from current regulations to capture the required actions of facilities (currently requires enrollment in five days but that is a school-based, not a facility-based, decision). Facilities, as proposed, must make all reasonable efforts for enrollment and document any such efforts.
670	Religion: Prohibits residents from being required or coerced to participate in or be unreasonably denied participation in religious activities and for the procedure to be accessible to residents.	6VAC35-51-930 requires procedures for resident participation in religious activities to be available to residents and for no resident to be coerced to participate in religious activities.	The proposed section is consistent with the current regulatory provisions.
680	Recreation: Requires each facility to have a recreational program plan with four required components. Also requires the plan to address how residents will be screened for participation and supervised while participating. Also requires ten required planning	6VAC35-51-940 requires a written description of the facility's recreation program and lists five required components. It also requires safety and specific overnight recreational and out-of-state trip procedures. 6VAC35-140-530 requires secure facilities	The proposed section is consistent with current regulation.

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	components of overnight recreational trips away from the facility.	to (i) have indoor and outdoor recreation areas; (ii) provide an opportunity for large muscle exercise daily; (iii) document circumstances prohibiting outdoor recreation; and (iv) provide a variety of fixed and movable equipment for indoor and outdoor recreation periods.	
690	Residents' funds: Requires residents' funds to be used only for three specific purposes.	6VAC35-51-970 requires JCCs and group homes to provide opportunities for residents to learn the value of money and to have procedures regarding allowances. It requires all facilities to have procedures for the management of residents' funds and for such funds to be used for the residents' benefit. 6VAC35-140-110 requires residents' funds to be used for their benefit, to pay court ordered fines/fees, or to pay restitution.	The proposed section streamlines the current regulatory provisions.
700	Fundraising: Requires permission from the resident's parents and the resident's consent prior to participating in fundraising activities.	6VAC35-51-210 requires written permission from the parent/legal guardian and permission from the resident (if 14 or older) prior to participation in fundraising activities.	The proposed section is consistent with current regulations.
710	Placement pursuant to a court order: This section lists the regulatory provisions for which placements pursuant to court orders are exempted (if the court order is maintained in the case record).	No previous section addressed this issue. (It was separately set forth in the applicable sections.)	The proposed section clarifies which sections do not apply when a resident is admitted pursuant to a court order.

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720	Readmission to a shelter care program: This section lists provisions that do not apply when a resident is readmitted to a shelter care facility within 30 days of discharge.	No previous section addressed this issue.	The proposed section lists regulatory provisions from which shelter care facilities are excluded when a resident is readmitted within 30 days of discharge. This provision is intended to reduce duplicative paperwork and processes when there is a quick turn-around time between discharge and readmission.
730	Application for admission: Requires admission to facilities to be based on an evaluation of an application for admission. The application must include seven components, and the review must include three components listed in this section.	6VAC35-51-680 lists components for applications for admission.	The proposed section is consistent with current regulations.
740	Admission procedures: This section lists what facilities must do upon admission of a resident.	6VAC35-51-630(A) and (B) require facilities to have criteria for admission; accept only residents compatible with services available.	The proposed section is consistent with current regulations.
750	Written placement agreement: Requires a written placement agreement for noncourt ordered placements and lists six required components of the agreements.	6VAC35-51-620 requires a written placement agreement (except placement via court order or in a shelter care facility). 6VAC35-51-690 lists specific components of a placement agreement and requires the agreement or court order to be kept in the resident's record.	The proposed section is consistent with current regulations.
760	Admission: This section lists what facilities must do upon admission of a resident. It has procedural requirements and lists the items on which residents must be oriented.	6VAC35-140-60 requires procedures governing admission and orientation to include verification of authority of placement, search of the resident, health screening, notice of admission, interview	The proposed section is consistent with current regulations and includes a requirement to ask parents about any medical concerns the resident may have and to orient the resident on their rights, including the right to be free

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
		of the resident, explanation of the program, and assignment to a room.	from any form of abuse.
770	Orientation to facility rules and disciplinary procedures: Requires residents to be oriented to the facility, including the rules of conduct and disciplinary process.	6VAC35-140-65 requires an orientation to the facility covering the rules and sanctions and requiring assistance to any resident with literacy difficulties.	The proposed section is consistent with current regulations.
780	Emergency admissions: This section lists requirements for facilities when residents are admitted as emergency placements.	6VAC35-51-670 addresses procedural requirements when there is an emergency or a self-admission into a facility.	The proposed section deletes the language regarding self-admissions.
790	Resident transfer between residential facilities located in Virginia and operated by the same governing authority: Requires a summary to be done at the time of transfer and the receiving facility to document three things upon admission.	6VAC35-51-730 requires documentation for intra-system transfers (unless by court order).	The proposed section reduces the amount of information, additional to the case record, which must accompany the resident and deletes the requirement for the sending facility to retain information.
800	Placement of residents outside the facility: Prohibits placement of residents in facilities not licensed.	6VAC35-51-750 prohibits placement of residents in a facility that is not licensed by DSS, except as ordered by the court or permitted by statute.	The proposed section is consistent with current regulations.
810	Discharge procedures: Requires discharge criteria to be available to prospective residents; for residents to be discharged only to the legal guardian, legally authorized representative, or foster parent, if approved by the guardian, unless an adult or emancipated. Also requires medication and treatment information to be provided to the parent/ guardian.	6VAC35-51-730 requires facilities to have criteria for discharge; retain discharge summary or court order and documentation of discharge/court order; release only to authorized person; and information for continuing care to be provided to the authorized person. 6VAC35-140-180 requires releases to be in accordance with	The proposed section is consistent with current regulations except it adds that a resident may be released to a foster parent, if authorized, and an adult or emancipated resident may be released to his/her own accord.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
820	Discharge documentation: Requires discharge documentation to be in the case record and lists required components, unless a resident is released pursuant to a court order.	procedures. 6VAC35-51-730 requires facilities to have criteria for discharge; retain discharge summary or court order and documentation of discharge/court order; release only to authorized person; and information for continuing care to be provided to the authorized person.	The proposed section is consistent with current regulations.
840	Structured programming: Requires each facility to have structured daily routines that are available to residents upon admission and appropriate to the residents' needs, and provide appropriate supervision and services. Such programming must be available to residents upon admission.	6VAC35-51-710 requires an initial plan to be developed for all residents within three days of admission. 6VAC35-51-780(A) and (B) require a structured program of care and a daily routine. Subsection (F) requires the routine to account for appropriate sleep and rest; (G) requires the promotion of good hygiene; and (H) requires compliance with facility/local curfews.	The proposed section no longer requires a plan to be drafted within three days of admission. This requirement is replaced by the provision requiring residents to be able to participate in programming upon admission. Given the structured environment in the group homes under this section, the requirement to develop a plan (which usually involves participating in the behavior management and educational programs) was evaluated as duplicative responsibilities for staff. Procedural language was also removed.
850	Daily log: Requires a daily log to be maintained to inform staff of issues experienced by the residents. It requires the log entries to have the date, time, and the name of the person writing the entry. Also requires electronic logs to prevent the overwriting of entries.	6VAC35-51-780(C), (D), and (E) require a daily communication log documenting significant happenings (including health complaints) and the identification of the author and time. 6VAC35-140-170 requires electronic log books to have protections to prevent entries from being overwritten.	The proposed section is consistent with current regulations.
860	Individual service plan: Requires service plans to be developed within 30 days of admission. It lists required	6VAC35-51-720(A), (B), and (C) require an individual service plan (ISP) to be developed	The proposed section separates the requirements of service plans from progress reports and modifies the required

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	<p>components of the service plan, who must participate in the development, and who must be invited to participate in its development.</p>	<p>within 30 days of admission and list required components. They also require progress to be documented and the plan to be reviewed every 90 days. Subsection (F) requires the ISP to be signed and dated; (G) requires staff to be able to describe the ISP; (H) details who should be involved in the ISP development and updating; and (I) addresses who receives a copy.</p>	<p>participants to require invitations. The facilities do not have control over whether outside individuals choose to participate.</p>
870	<p>Quarterly reports: Requires the quarterly review of a resident's progress in the program; lists five required components of the review; and identifies the individuals to whom the review must be distributed.</p>	<p>6VAC35-51-720 (D) requires the resident's progress to be reviewed every 90 days. Subsections (D) and (E) deal with components of the review; (F) requires the ISP to be signed and dated; (H) details who should be involved; and (I) addresses to whom copies should be provided. Section 16.1-284.1 of the Code of Virginia requires the court to review the case monthly to determine whether "the purpose of the order of confinement has been achieved."</p>	<p>The proposed section is generally consistent with the current regulatory scheme; however, it does change who is required to participate in reviewing the resident's progress. The facilities do not have control over who attends or participates in meetings.</p>
880	<p>Therapy: Requires therapy to be provided by an appropriately licensed or supervised professional.</p>	<p>6VAC35-51-770 requires therapy to be provided by a licensed professional or someone supervised by a licensed professional (unless exempted).</p>	<p>The proposed section is consistent with current regulations.</p>
890	<p>Community relationships: Requires facilities to provide opportunities for</p>	<p>6VAC35-51-950 requires (i) opportunities for residents in group homes</p>	<p>The proposed section is consistent with current regulatory requirements.</p>

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	resident to participate in community activities. Also requires procedures for governing how such activities will be selected; for each facility to have a community liaison; and for procedures to be implemented to promote positive neighborhood relationships.	to use community resources; (ii) procedures for evaluating volunteers; (iii) a staff community liaison; and (iv) procedures for promoting positive neighborhood relations.	
900	Resident visitation at the homes of staff. Requires approval from the parent, placing agency, and facility administrator prior to allowing any visitation at the homes of staff.	6VAC35-51-1000 allows visitation at the homes of staff with permission from the legal guardian and placing agency.	The proposed section requires approval from the parent, placing agency, and facility administrator prior to allowing any visitation at the homes of staff.
910	Additional assignments of direct care staff. Requires direct care staff to assume nondirect care responsibilities when they do not interfere with direct care duties.	6VAC35-51-410 states direct care staff may perform other duties only if they do not interfere with supervisory responsibilities. It also prohibits residents from being solely responsible for support functions.	The proposed section is consistent with the current regulations.
920	Staff supervision of residents: Requires staff not to work more than six consecutive days or 16 consecutive hours; and staff to have an average of two rest days per week. It requires one trained direct care staff actively supervising residents; and requires procedures for contingency staffing planning and to govern the movement of residents. Also requires one staff member to be certified in first aid and CPR whenever residents are being supervised by staff.	6VAC35-51-830 prohibits direct care staff from working more than six consecutive days or more than 16 hours in a row and requires an average of two rest days per week every four weeks. Subsection (D) requires one trained direct care staff and a staff certified in CPR/first aid to be present when residents are present. Subsection (F) does not apply. 6VAC35-140-540(A) requires 24-hour, awake supervision. Subsection (B) sets requirements for supervision by a staff of	The proposed section is consistent with current regulations.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
		the opposite sex from the resident. 6VAC35-140-540(G) prohibits residents from controlling other residents unless part of an approved program.	
930	Staffing pattern: Requires a 1:10 staff-to-resident ratio during the day and a 1:16 ratio during hours residents are scheduled to sleep. Also requires one staff to be on duty in every building or living unit where residents are sleeping.	6VAC35-140-545 requires a 1:10 awake and 1:16 asleep staff-to-resident ratio. It requires one staff per floor and in each building.	The proposed section is consistent with the current regulatory provisions.
940	Outside personnel working in the facility: Requires outside personnel to be monitored if in the presence of residents and prohibits adult inmates from having direct contact with residents.	6VAC35-140-540(F) prohibits service personnel from working in secure facilities where they may have contact with residents (unless supervised). 6VAC35-140-290 requires facilities to monitor outside personnel performing work in the presence of residents and the separation of adult inmates from residents.	The proposed section is consistent with the current regulations.
950	Work and employment: Requires work assignments to be appropriate to the age, health, ability, and service plan of residents and prohibits work assignments from interfering with school, meals, or sleep. Also requires the facility administrator to evaluate the fairness of pay for the work performed.	6VAC35-51-980 sets requirements for the assignment of chores and for work assignments outside the facility, including evaluating the fairness of pay.	The proposed section is consistent with the current regulations.
960	Independent living programs: Requires independent living programs to be competency-based and approved by the board. Also requires a written	6VAC35-51-1070 lists the requirements for independent living programs. 6VAC35-140-350 requires independent	The proposed section is consistent with the current regulations.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	program description with certain components.	living programs to have a description of curriculum and teaching methods.	
970	Independent living programs curriculum and assessment: This section lists curriculum, assessment, and programmatic requirements of independent living programs.	6VAC35-140-350 requires independent living programs to have a description of curriculum and teaching methods.	The proposed section is consistent with the current regulations.
980	Employee training in independent living programs: Requires certain training for independent living program staff.	6VAC35-140-350 requires independent living programs to have a description of curriculum and teaching methods.	The proposed section is consistent with the current regulations.
990	Medication management in independent living programs: Requires procedures regarding medication management in independent living programs.	6VAC35-51-1070 lists the requirements for independent living programs.	The proposed section is consistent with the current regulations.
1000	Nutrition procedure in independent living programs: Requires written procedures for ensuring residents receive adequate nutrition.	6VAC35-51-1070 lists the requirements for independent living programs. 6VAC35-140-350 requires independent living programs to have a description of curriculum and teaching methods, including nutrition.	The proposed section is consistent with the current regulations.
1010	Wilderness program: Requires wilderness programs to be approved by the board with several programmatic requirements. Also requires a written program description with five required components.	6VAC35-51-1090 lists the requirements for wilderness programs. 6VAC35-140-710 addresses programmatic requirements of wilderness work programs.	The proposed section is consistent with the current regulations.
1020	Wilderness programs or adventure activities: This section has 14 requirements to be met prior to taking residents on wilderness or adventure activities.	6VAC35-51-1090 lists the requirements for wilderness programs. 6VAC35-140-710 addresses programmatic requirements of wilderness work programs.	The proposed section is consistent with the current regulations.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
1030	Initial physical for wilderness programs or adventure activities: Requires initial physical forms to be completed for programs that take residents on wilderness or adventure activities and lists two required components of the physical form.	6VAC35-51-1090 lists the requirements for wilderness programs. 6VAC35-140-710 addresses programmatic requirements of wilderness work programs.	The proposed section is consistent with the current regulations.
1040	Physical environment of wilderness programs or adventure activities: This section establishes requirements for wilderness programs and adventure activities to have personal storage, fire extinguishers, safe artificial lighting, lighting sufficient for safety, a telephone in all areas where residents sleep or participate in programs, and first aid kits.	6VAC35-51-1090 lists the requirements for wilderness programs. 6VAC35-140-710 addresses programmatic requirements of wilderness work programs.	The proposed section is consistent with the current regulations.
1050	Sleeping areas of wilderness programs or adventure activities: This section allows the use of primitive campsites and requires screening, separate beds, mattress covers, clean bedding, certain sleeping bags, and appropriate cleanliness. It also allows staff of the same sex to share the sleeping area with residents.	6VAC35-51-1090 lists the requirements for wilderness programs. 6VAC35-140-710 addresses programmatic requirements of wilderness work programs.	The proposed section is consistent with the current regulations.
1060	Personal necessities in wilderness programs or adventure activities: Requires each resident to be provided with adequate clothing and footwear.	6VAC35-51-1090 lists the requirements for wilderness programs. 6VAC35-140-710 addresses programmatic requirements of wilderness work programs.	The proposed section is consistent with the current regulations.
1070	Trip/activity coordination for wilderness programs or adventure activities: This	6VAC35-51-1090 lists the requirements for wilderness programs.	The proposed section is consistent with the current regulations.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	section sets the requirements for a trip coordinator and trip planning and documentation for wilderness programs and adventure activities.	6VAC35-140-710 addresses programmatic requirements of wilderness work programs wilderness work programs.	
1080	Requirements of family oriented group home systems: This section lists 11 required procedures for family oriented group home systems (FOGHs).	6VAC35-140-360 requires FOGHs to have procedures for household occupancy, supervision, admission/orientation, treatment, programs/services, resident funds, resident records, medical treatment, serious incident notification, and weapons.	The proposed section is consistent with the current regulations.
1090	Examination by physician: Requires a physical and TB screening within 30 days of admission.	6VAC35-140-370 requires FOGHs to have residents undergo a TB screening and physical examination.	The proposed section is consistent with the current regulations.
1100	Requirements of family group homes: This section lists 17 required components of FOGH placements.	6VAC35-140-380 requires FOGHs to follow 17 building and grounds, maintenance, sanitation, and safety requirements.	The proposed section is consistent with the current regulations.
1110	Other applicable regulations: This section lists four additional applicable regulatory provisions.	No specific prior section.	The propose section lists the other applicable requirements for FOGH placements.
1120	Definition of respite care: This section defines respite care.	Currently defined in 6VAC35-51-10.	The proposed section is consistent with the current regulations.
1130	Admission and discharge from respite care: Requires specific admission and discharge requirements for respite care.	6VAC35-51-630(C) details issues on admission to respite care.	The proposed section is consistent with the current regulations.
1140	Updating health records in respite care: Requires health records to be updated at the time of each stay in a facility.	6VAC35-51-630(C) details issues on admission to respite care.	The proposed section is consistent with the current regulations.
1150	Definitions applicable to health care services: This	Currently defined in 6VAC35-51-10 and	The proposed section is consistent with the current

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	section defines "health authority," "health care record," "health care services," and "health trained personnel."	6VAC35-140-10.	regulations.
1160	Provision of health care services: Requires nursing staff to follow applicable laws and other health trained staff to provide care within their training and certification.	6VAC35-140-192 requires nurses to perform treatment pursuant to verbal or written orders.	The proposed section is consistent with the current regulations.
1170	Health care procedures: Requires procedures in five areas relating to the provision of routine and emergency services. Also requires certain information on each resident to be readily available in case of an emergency.	6VAC35-51-790 requires certain health care procedures for routine and emergency services.	The proposed section clarifies applicability in the group home setting.
1180	Health trained personnel: Requires health trained personnel to provide care appropriate to their level of training and for the facility to maintain documentation of such trainings or certifications.	This requirement was previously included in the definition of "health trained staff person."	The proposed section is consistent with the current regulatory provisions.
1190	Consent to and refusal of health care services: Requires, if applicable, for parents to be advised of the material facts relating to any proposed health care procedures. It also includes a provision that the resident may refuse care and care may be rendered against a resident's will in accordance with applicable laws.	6VAC35-140-210 requires facilities to have procedures to (i) obtain consent as required by law; (ii) allow resident to refuse treatment; and (iii) to provide care against a resident's will consistent with applicable laws.	The proposed section is consistent with the current regulatory provisions.
1200	Health screening at admission: Requires residents to be screened at admission and not be admitted if the screening reveals residents pose a	6VAC35-140-190 requires facilities to perform a preliminary health screening on residents before being admitted to the general	The proposed section is consistent with the current regulatory provisions.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	health risk to themselves or others.	population; to separate residents who pose a risk; and to provide necessary health care immediately.	
1210	Tuberculosis screening: Requires TB screening within seven days of placement and the screening to be in accordance with the recommendations of the Division of TB Control at VDH.	6VAC35-51-800(B) and (C) require TB screening at admission and annually.	The proposed section is modified in order to allow flexibility in practice in order to be in conformity with the recommendations and requirements of the Division of TB Control at VDH.
1220	Medical examinations and treatment: Requires entrance and annual physical examinations.	6VAC35-51-800(A) requires an entrance physical examination. The proposed regulation retains this requirement. Subsection (G) requires documentation on annual dental exams (except for respite, shelter care, and detention centers).	This section is consistent with the current regulatory requirements; however, it does contain an exception for readmission to shelter care within 30 days of the previous discharge.
1230	Infectious or communicable diseases: Prohibits the admission of residents with known communicable diseases to be housed separately from the general population unless a physician certifies otherwise. Requires procedures for staff actions and training regarding communicable diseases.	6VAC35-51-800(F) prohibits admission of a resident with a communicable disease. 6VAC35-140-200 requires staff to be trained in universal precautions and on how to manage residents with communicable diseases.	The proposed section is consistent with the current regulatory requirements.
1240	Suicide prevention: Requires a suicide intervention plan and staff to be trained in the suicide prevention program.	6VAC35-140-250 requires all facilities to implement a suicide prevention and intervention program.	The proposed section is consistent with the current regulatory provisions.
1250	Residents' health records: Requires residents' health records to be maintained and lists certain required contents. Also requires the health records to be kept confidential, accessible in case of emergencies, and available to authorized staff	6VAC35-51-800(D) and (E) list contents of the health records. Subsection (H) requires notation of medical complaints and a summary of symptoms and treatment. 6VAC35-140-220	The proposed section is consistent with the current regulatory provisions.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	as allowed by law.	requires health records to be kept confidentially, accessible in case of emergency, and available to authorized staff.	
1260	First aid kits: Requires each facility to have first aid kits maintained in accordance with written procedures governing maintenance, stocking, and readiness for use. Also requires the first aid kits be accessible for use in emergencies.	6VAC35-51-800(K) requires a well-stocked first aid kit.	The proposed section adds a requirement for procedures to address maintenance and restocking.
1270	Hospitalization and other outside medical treatment of residents: Requires residents who receive out-of-facility treatment to be transported safely, accompanied by staff, law enforcement, or a parent/legal guardian. Also requires the parents or legal guardians to be notified of the treatment as soon as practicable.	6VAC35-140-230 requires residents needing health care services outside the facility to be transported safely and to be accompanied by appropriate persons. It also requires the parents/guardians to be notified of treatment outside the facility as soon as practicable.	The proposed section is consistent with the current regulatory provisions.
1280	Medication: This section contains complex procedures regarding the maintenance of and administration of medication and protocol when medication is refused. It requires proper labeling and storage; staff who administer medication to be trained and annually retrained and informed of any known side effects of the medication; procedures for over-the-counter medication; all medication to be administered in accordance with physicians' orders; medication administration records, with specific required components, to be	6VAC35-51-810 details extensive procedures regarding medications.	The proposed section adds an allowance for medication to be on the person of the resident if ordered by the physician; i.e., inhalers, and requires the notation of administration and refusals. The provisions are consistent with the current regulatory provisions.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	maintained; medication incidents (formerly referred to as medication errors) to be addressed, treated, and documented; medication refusals to be documented; unused medications to be legally disposed; the telephone numbers for poison control to be near each nonpay telephone; and syringes and other medical implements to be locked and inventoried.		
1290	Behavior management: Requires each facility to implement a behavior management program and lists five required components of the program's governing procedures.	6VAC35-51-900(A), (B), and (C) require procedures on (i) the rules of conduct, (ii) the behavior management techniques, and (iii) training, orientation, and dissemination of information on the behavior management program. Subsections (K) and (L) require the procedures to be reviewed annually and for staff trained in the behavior management program to be present any time residents are present.	The proposed section is consistent with the current regulatory provisions.
1300	Behavior support: Requires a behavior support plan to be developed if a resident requires supports in addition to those in the behavior management program.	6VAC35-51-860 requires a behavior support plan to be prepared within 30 days of admission for every resident. It details the required components of the plan and individuals to be involved in its development. It also requires staff to be knowledgeable of the plan and excludes detention centers and RDC.	The proposed section no longer requires a behavior support plan for every resident (as each facility has a behavior management program applicable to all residents) but does require the facility to implement a plan if additional supports are identified as necessary. The specific components of the contract are not included in this proposed section.
1310	Timeout: Requires certain procedures if a facility uses	6VAC35-51-870 requires certain procedures if a	The proposed section is consistent with the current

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
	timeouts (prohibits timeouts in locked spaces).	facility uses timeouts.	regulatory provisions.
1320	Physical restraint: This section details when and how physical restraint may be used (as a last resort, when other interventions have failed, and necessary to control a risk to the safety of the resident, others, or the public). It requires specific procedures governing restraint to include training, documentation, review, and a focus on de-escalation.	6VAC35-51-900(D) through (J) require procedures governing the use of physical restraint, place restrictions on when and who may use restraints, and require documentation each time a resident is restrained.	The proposed section contains the major substantive components from the existing regulation and adds a requirement for training in crisis prevention and intervention techniques, the specific purpose for the review of the report, and a requirement to identify the control techniques that are appropriate to identified levels of risk.
1330	Chemical agents: Prohibits the use of chemical agents by staff in facilities.	6VAC35-140-660 allows use of pepper spray with board approval in certain circumstances. Board policy 18-005 prohibits staff from using chemical agents in facilities regulated by the board.	The proposed section adopts the board policy language.

Completely deleted sections of existing regulations

The following sections of existing regulations were deleted entirely from the proposed regulation because they: (1) did not apply to facilities regulated by the board (as previously contained in the Interdepartmental Standards); (2) were procedural in nature and inappropriate for the regulation; (3) addressed duties that are not the responsibilities of the facilities; i.e., duties of the board, regulatory authority, or department; or (4) were not appropriate for the regulation governing facilities regulated by the board:

- 6VAC35-51-20. Interdepartmental cooperation.
- 6VAC35-51-30. Applications. (Addresses applications to become a children's residential facility.)
- 6VAC35-51-40. Investigation. (Mandates DJJ to inspect and investigate children's residential facilities.)
- 6VAC35-51-50. Review of facilities. (Requires DJJ to review facilities during the period of certification to monitor compliance with the regulation and to notify localities of any health/safety violations.)
- 6VAC35-51-60. Posting of information. (Requires DJJ to post information on its website.)
- 6VAC35-51-80. Corrective action plans. (Requires plans to be submitted for each provision on which a facility is found noncompliant.)
- 6VAC35-51-90. Licenses/certificates. (Details terms of certification that may be issued by the board.)
- 6VAC35-51-100. Application fees. (Lists fees for initial application and renewal.)

- 6VAC35-51-110. Modification. (Addresses when and how certification may be modified. Also states that a facility may not implement any contemplated change prior to approval of the regulatory authority.)
- 6VAC35-51-120. Denial. (Lists circumstances when an application for licensure may be denied.)
- 6VAC35-51-130. Revocation. (Lists when a certificate may be revoked.)
- 6VAC35-51-140. Summary suspension. (Details the procedure for the summary suspension of a facility's licensure.)
- 6VAC35-51-160. Investigation of complaints and allegations. (Requires DJJ to investigate complaints against a facility it regulates.)
- 6VAC35-51-190. Fiscal accountability. (Requires certain facilities to prepare end of the year financial documents, to have a bookkeeping system, and to have procedures for the handling of facility funds.)
- 6VAC35-51-320. Staff supervision. (Requires procedures regarding the supervision of staff; including type, frequency, and documentation.)
- 6VAC35-51-330. Applicant. (Lists requirements applicant must meet prior to consideration for initial licensure.)
- 6VAC35-51-340. Chief administrative officer. (Lists the responsibilities and qualifications of a CAO.)
- 6VAC35-51-350. Program director. (Lists the responsibilities and qualifications of a program director.)
- 6VAC35-51-360. Case manager. (Lists the responsibilities and qualifications of a case manager.)
- 6VAC35-51-370. Child care supervisor. (Lists the responsibilities and qualifications of a child care supervisor.)
- 6VAC35-51-380. Child care staff. (Lists the responsibilities and qualifications of a child care staff.)
- 6VAC35-51-390. Relief staff. (Allows qualified relief staff to be used as needed to meet programming needs.)
- 6VAC35-51-650. Interstate Compact on the Placement of Children. (Details requirements when discharging a resident to a residence in another state.)
- 6VAC35-51-1010. Vehicles and power equipment. (Requires safety rules for the maintenance of power equipment).
- 6VAC35-51 FORMS

- 6VAC35-140-20. Other applicable standards. (Indicates these regulations coexist with the Interdepartmental regulation.)
- 6VAC35-140-22. National accreditation is deemed compliance with these standards. (Allows accreditation by ACA to show compliance with this Chapter.)
- 6VAC35-140-23. Outcome-based and performance-based standards authorized. (Allows an exemption from a regulatory provision for the implementation of a performance-based alternative standard.)
- 6VAC35-140-24. Regulation establishes policy. (States the authority of the board to promulgate regulations.)
- 6VAC35-140-30. Applicability. (States applicability of the regulatory provisions.)
- 6VAC35-140-40. Previous regulation terminated. (States impact of regulation on other provisions.)
- 6VAC35-140-45. General requirement. (Requires facilities to comply with applicable laws and regulations.)
- 6VAC35-140-150. Nonresidential programs and services. (Requires nonresidential services offered by juvenile facilities to comply with applicable laws and regulations.)

- 6VAC35-140-295. Political activity. (Requires facilities to have procedures governing political activities, such as campaigning and lobbying.)
- Article 6.1 – Standards for Halfway Houses (Contains six requirements specific to halfway houses)
 - 6VAC35-140-385. Administration and organization.
 - 6VAC35-140-386. Review of collective service needs.
 - 6VAC35-140-387. Program to reinforce positive behavior.
 - 6VAC35-140-388. Organizational communications.
 - 6VAC35-140-389. Financial practices.
 - 6VAC35-140-709. Other applicable standards.
- 6VAC35-140-790. Junior ROTC program. (Requires JROTC to have a description of criteria for entrance, retention, termination, and how discipline and sanctions will be applied.)

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The proposed regulation may affect small business in as much as a small business provides a program or service subject to this regulation. Having clear, concise, and consistent requirements across facilities (i) provides such entities with clear requirements and (ii) ensures consistency in such requirements throughout the Commonwealth. The proposed amendments would streamline the compliance and reporting requirements while not affecting the quality of services provided in facilities and to administrators subject to the regulation or the ability of the board or department to oversee such functioning and thus would benefit any affected small businesses.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This regulatory action should have a positive impact on families when residents receive services through a facility's program or staff member. To the extent the regulation improves those services or promotes health and safety in those services, they should have a positive impact on families. The regulation will serve to bolster family relationships and communities given the focus on preventing delinquency and

promoting youth development. The regulation is not expected to have any impact on disposable family income.