



COMMONWEALTH of VIRGINIA
Office of the Attorney General

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TO: DUKE STOREN, Commissioner, Virginia Department of Social Services
FROM: ELLEN R. FULMER, Senior Assistant Attorney General 
DATE: June 29, 2026
SUBJECT: Fast track Regulation Section – 22VAC40-141 (Amend Standards for Independent Foster Home Regulatory Reduction)

I am in receipt of the attached regulation. You have asked the Office of the Attorney General to review and determine if the State Board of the Virginia Department of Social Services has the statutory authority to promulgate the proposed regulation and if the proposed amendments to the regulation comport with the applicable state and federal laws.

This regulatory action proposed technical edits and amendments that reduce regulatory burdens on independent foster home providers by clarifying and removing repetitive, obsolete and overly burdensome prescriptive requirements in accordance with Executive Directive One (2022) and Executive Order 19 (2022). The amendments also provide consistency with the *Standards for Licensed Child-Placing Agencies*, 22VAC40-131 and *General Procedures and Information for Licensure*, 22VAC40-80.

It is my opinion that the State Board of DSS has the authority to promulgate the amendments in this regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act ("APA"), and that in so doing the State Board does not exceed that authority.

Further, it is my view that this regulation is appropriate for the Fast-track rule making process under Article 2 of the APA pursuant to Virginia Code 2.2-4012.1 because

it is noncontroversial. If you have any questions or need additional information about these regulations, please contact me at 786-4856.

cc: Kim F. Piner, Esquire

Attachment

Project 8277 - Fast-Track

Department of Social Services

Chapter 141 Amend Standards for Independent Foster Home Regulatory Reduction

22VAC40-141-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Assistant" means an individual 18 years of age or older who is selected by the an independent foster parent home provider to assist the provider in the care and supervision of the children in the home.

"Child" means ~~any~~ an individual less than 18 years of age.

"Child with special needs" means a child with a diagnosed physical, mental, ~~or~~ emotional disabilities ~~such as, but not limited to, cerebral palsy, sensory impairment, learning disabilities, behavior disorders, chronic illnesses, a deficit in social functioning, mental retardation, or emotional disturbance,~~ or developmental disability and who may require special monitoring or specialized programs, interventions or facilities.

"Commissioner" means the Commissioner of the ~~Department of Social Services~~ department, ~~his~~ the Commissioner's designee, or an authorized representative.

"Department" means the Virginia State Department of Social Services.

~~"Good character and reputation" means findings have been established and knowledgeable and objective people agree that the individual (i) maintains business, professional, family, and community relationships which are characterized by honesty, fairness, truthfulness and dependability and (ii) has a history or pattern of behavior that demonstrates that the individual is suitable and able to care for, guide, supervise, and protect children. Relatives by blood or~~

~~marriage, and persons who are not knowledgeable of the individual, such as recent acquaintances, shall not be considered objective character and reputation references.~~

"Independent foster home" means a private family home in which any child, other than a child by birth or adoption of such person, resides as a member of the household and has been placed therein independently of a child-placing agency except (i) a home in which are received only children related by birth or adoption of the person who maintains such home and children of personal friends of such person; (ii) a home in which are is received a child or children committed under the provisions of subdivision A 4 of § 16.1-278.2, subdivision 6 of § 16.1-278.4, or subdivision A 13 of § 16.1-278.8 of the Code of Virginia; and (iii) a home in which are received only children who are the subject of a properly executed power of attorney pursuant to Chapter 10 (§ 20-166 et seq.) of Title 20 of the Code of Virginia.

~~"Infant" means any child from birth up to 16 months of age.~~

~~"Major injuries, illnesses and accidents" means injuries, illnesses or accidents that require emergency medical care or treatment.~~

"Parent" means the legal parents or legal guardians of the child.

"Placing agreement" means the written agreement signed by the child's parents ~~or guardians~~ and the independent foster home parents in which the parents ~~or guardians~~ authorize the child's placement in the independent foster home for a period of 180 days or fewer. The placing agreement specifies the rights and responsibilities of each party but does not transfer legal custody to the independent foster home parent. The agreement addresses acquisition of, and consent for, any medical treatment needed by the child; financial responsibility for the placement; visitation with the child's family; and if appropriate to the child's age, unauthorized absences from the home. ~~The parents or guardians may withdraw the placing agreement at any time during the placement period.~~

"Provider" means independent foster parents who give 24-hour substitute family care, room and board, and services for up to eight children who reside in the provider's home as members of the household. A provider may be a ~~husband and wife~~ spouses.

"Serious incident" means an accident or injury requiring medical attention other than minor first aid or illness that requires hospitalization; or an event that affects, or potentially may affect, the health, safety, or welfare of the child such as criminal activity; police intervention; child or youth absence that cannot be accounted for by the provider.

"Temporary entrustment agreement" means the agreement signed by the child's parents ~~or guardians~~ and the licensed independent foster parent in which the parents ~~or guardians~~ temporarily confer physical and legal custody of their child to the licensed provider for less than 180 days. The temporary entrustment agreement specifies the rights and obligations of the child, the parents ~~or guardians~~ and the provider, includes the responsibilities of the parents for financial support, and grants authority for medical care of the child. ~~Temporary entrustment agreements may be withdrawn by the parents or guardians at any time during the 180-day period. Placements for longer than 90 days must be approved by the local juvenile and domestic relations court.~~

"Time-out" means a discipline technique in which a child is moved for a brief time away from the stimulation and reinforcement of ongoing activities and other children to allow the child to regain composure when losing self-control.

22VAC40-141-20. Legal authority.

A. The licensed independent foster parent is permitted by law to accept children for care who are entrusted to the provider by the parents ~~or legal guardians~~ or whose parents have signed a placing agreement authorizing the child's temporary placement in the independent foster home. A temporary entrustment agreement transfers custody of the child from the parents ~~or legal guardians~~ to the independent foster parents. A placing agreement authorizes the child's

placement in the independent foster home while allowing the parents ~~or guardians~~ to maintain legal custody.

B. The local juvenile and domestic relations court must approve the temporary entrustment agreement if the child is to remain in the placement for more than 90 days.

C. Individuals are exempt from licensure if they only provide care to for children who are born to or adopted by the individual or children of relatives or personal friends.

~~D. Subdivision A 4 of § 16.1-278.2 of the Code of Virginia referenced in the definition of an independent foster home refers to the placement decisions for children by local boards of social services or a public agency designated by the community policy and management team. Subdivision 6 of § 16.1-278.4 of the Code of Virginia refers to the court transfer of legal custody from the parent to another individual or agency. Subdivision 13 of § 16.1-278.8 of the Code of Virginia refers to the court's disposition of delinquent juveniles. Individuals receiving children under these provisions are not subject to licensure under this regulation.~~

~~E. Section 63.2-1734 of the Code of Virginia establishes the authority of the State Board of Social Services to promulgate regulations for the activities, services and facilities to be employed by persons and agencies required to be licensed by § 63.2-1701 of the Code of Virginia. Regulations shall be designed to ensure that such activities, services and facilities are conducive to the welfare of the children under the custody or control of such persons or agencies. Section 63.2-1712 of the Code of Virginia states that it shall be a misdemeanor to operate or engage in the activities of a child welfare agency without first obtaining a license.~~

22VAC40-141-30. General requirements.

A. Children ~~No child shall remain in care or be placed in an independent foster homes~~ home by their parents ~~or legal guardian shall not remain in care~~ for longer than 180 days.

~~Exception:~~ A child's placement in the independent foster home may exceed 180 days for reasons of parental ~~illness/recuperation~~ illness or military deployment if that was the reason for the placement and the provider refers the child to the local department of social services and makes a request for an assessment of the care and custody of the child to determine if additional services or evaluations are necessary.

B. For a child placed in the independent foster home by a temporary entrustment agreement, if it appears that the child cannot be returned to the child's parent ~~or guardian~~ within 90 days of the date of placement, the provider shall petition the local juvenile and domestic relations court within 30 days of placement to request an assessment of the care and custody of the child.

C. Providers shall be at least 21 years of age.

D. Providers shall have either a bachelor's degree in a field related to family human services, child care and development, social work or education or a high school diploma or a G.E.D. and at least one year of experience providing care to children in the age range to be placed in the home.

E. Providers who accept children with special needs shall have experience or training directly relevant to the developmental levels and special needs of the children in care.

F. The provider shall be responsible for the home's day-to-day operation and for meeting licensing requirements.

G. The applicant for licensure and provider shall ensure compliance with Background Checks for Child Welfare Agencies as outlined in 22VAC40-191. Felony convictions of § 18.2-346 prior to 2021 are barrier crimes.

H. No provider shall permit a sex offender to reside in the independent foster home or to have contact with the children in care.

22VAC40-141-40. Background checks. (Repealed.)

~~A. The applicant for licensure, the provider, assistant and adult household members, and any other adult who is involved in the day-to-day operations of the independent foster home or will be alone with, in control of, or supervising one or more children placed in the home shall receive and provide to the licensing representative:~~

~~1. The results of a criminal history record check conducted by the Virginia State Police through the Central Criminal Records Exchange and shall not have an offense as described in § 63.2-1719 of the Code of Virginia;~~

~~2. The results of a search of Virginia's Child Protective Services central registry and shall not have a founded child abuse or neglect record; and~~

~~3. A sworn disclosure statement or affirmation disclosing whether the person has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and whether the person has been the subject of any founded complaint of child abuse or neglect within or outside the Commonwealth.~~

~~B. The provider shall not permit a known sex offender to reside in the home or to have contact with the children in care.~~

22VAC40-141-60. Assessment of knowledge, skills and abilities.

~~A. The provider and any assistants left alone with children shall be able to speak, read, and write in English sufficient to understand and carry out the responsibilities and requirements of this chapter to ensure the care, safety, and protection of children implement trauma-informed care practices to form an understanding and display respect for children in care and their families.~~

~~B. The provider and assistant shall be knowledgeable about and physically and mentally capable of providing the necessary care for children.~~

~~C. The provider and assistant shall be able to sustain positive and constructive relationships with children in care; shall relate to children with respect, courtesy, patience and affection; and shall demonstrate an understanding and respect for the families of children in care.~~

~~D. The provider and assistant shall be capable of handling emergencies with dependability and good judgment.~~

~~E. B.~~ The provider shall have the financial income to meet the basic needs of the provider's own family as well as to meet the needs of each child in placement if the parents are unable to pay for the child's care.

~~F. C.~~ The provider shall have knowledge, skills and abilities in parenting skills and behavior management of children in the age or special needs group of the children to be placed with the provider.

~~G. D.~~ The provider and assistant shall respect the confidentiality of the child and his the child's family in accordance with § 63.2-104 of the Code of Virginia.

~~H. The provider and assistant shall be responsible, of good character and reputation and shall display behavior that demonstrates stability and maturity.~~

~~I. The provider shall demonstrate marital stability, if married.~~

~~J. E.~~ The provider shall complete the required Home Study Assessment form provided by the department and submit the completed form with the initial application for licensure.

22VAC40-141-70. Training.

A. When such training is available from the Department of Social Services, local departments of social services, or licensed child-placing agencies, the provider shall complete an initial foster parent orientation and training session ~~within the first six months of initial licensure.~~

B. The provider, ~~any assistants, and any other adult~~ adults expected to be alone with children placed in the independent foster home ~~with children~~ shall receive, ~~prior to licensure or employment, and maintain~~ certification in first aid and cardiopulmonary resuscitation appropriate to the age of children in care, ~~from an approved source such as the American Red Cross, the American Heart Association, National Safety Council or an equivalent resource approved by the~~ department.

C. ~~The provider, assistant, and any other adult expected to be alone in the home with children shall maintain current certificates in first aid and cardiopulmonary resuscitation, appropriate to the age of children in care, from an approved source such as the American Red Cross, the American Heart Association, the National Safety Council or an equivalent resource approved by the~~ department.

~~D. C.~~ The provider shall attend at least 20 12 hours of related training ~~each year~~ annually. The provider shall maintain documentation of training attended.

22VAC40-141-80. Medical requirements for provider, assistant and household members.

A. Within 90 days prior to the initial application, the applicant for licensure as an independent foster home provider, ~~each assistant~~ assistants and each adult member of the household ~~members~~ shall ~~undergo an assessment for risk of tuberculosis infection and disease~~ provide documentation on the appropriate report of tuberculosis form published by the Virginia Department of Health (Report of Tuberculosis Screening Clearance Letter for Negative Screen (Form 1), Report of Tuberculosis Screening Report of TST/X-ray Results (Form 2), or TB Risk Assessment (TB 512)) or a form that is consistent with those requirements, that the individual is free of tuberculosis infection in a communicable form.

~~1. The applicant shall provide documentation from the health department, a physician, or a physician's designee that each individual is "free from tuberculosis in a communicable form."~~

~~2. Individuals needing additional testing to determine the absence of tuberculosis in a communicable form shall obtain a tuberculin skin test and:~~

~~a. The statement shall include the type of test used, the date of the test, and the test results.~~

~~b. The statement shall be signed and dated by a physician, the physician's designee, or an official of a local health department.~~

~~B. If an individual is not able to receive a tuberculin test for health reasons, this shall be documented by a physician.~~

~~1. The physician's statement shall also include the date when the test can be safely administered.~~

~~2. The individual shall obtain the tuberculin test no later than 30 days after the date indicated by the physician.~~

~~C. An individual who had a positive reaction to a tuberculin skin test and whose physician certifies the absence of communicable tuberculosis shall obtain chest x-rays on an annual basis for the following two years.~~

~~1. The statement shall document the date of the x-rays.~~

~~2. The statement shall be signed by a licensed physician, the physician's designee, or an official of a local health department.~~

~~D. Any~~ B. An individual who, upon a physical examination or as a result of tests screening, shows indication of communicable tuberculosis or a physical condition that may jeopardize the

safety of children in care shall be removed from contact with children and, where indicated, from food served to children until a licensed physician certifies the risk to children has been eliminated or substantially reduced.

~~E. Contact may resume when a licensed physician certifies that the risk to children has been eliminated or substantially reduced.~~

F. C. The provider, any assistants, and any adult household members shall undergo subsequent screening or testing, as appropriate, every two three years thereafter.

~~G. Any individual who comes in contact with a known case of tuberculosis or develops chronic respiratory symptoms shall, within 30 days of exposure or development, receive an evaluation to indicate the absence of tuberculosis in a communicable form.~~

22VAC40-141-85. Temporary entrustment agreement requirements.

A. A written temporary entrustment agreement or placing agreement shall be received ~~on~~ every for the child placed directly by the child's parents ~~or guardians~~ in the independent foster home.

B. Prior to entering into a temporary entrustment agreement, the provider shall consider:

1. The needs of the child and whether the independent foster home can meet those needs;
and
2. The needs of any other children residing in the independent foster home; and
3. ~~The impact of the individual child joining the household.~~

C. The temporary entrustment agreement shall be for placement of less than 180 days.

~~D. If the provider is aware at the time of admission that the placement will extend beyond 90 days, the provider shall petition the local juvenile and domestic relations court for approval of the entrustment agreement within 30 days of placement.~~

~~E. If the length of placement is not known at admission, the provider shall petition the court for approval as soon as the provider is aware that the placement will be for longer than 90 days.~~

~~F. Each subsequent~~ D. Subsequent entrustment agreement agreements for the same child shall be considered placement for longer than 90 days and shall receive approval by the local juvenile and domestic relations district court.

~~G. The~~ E. No entrustment agreement shall ~~not~~ extend beyond the child's 18th birthday.

~~H. F.~~ The parents ~~or guardians~~ may request the return of a child ~~at any time~~ prior to the 90th day of placement without the court's approval.

~~I. G.~~ The entrustment agreement shall be considered revoked upon the parents' ~~or guardians'~~ request.

~~J. H.~~ If the provider opposes the request for the child to return home or to a prior custodian, the provider shall immediately file the appropriate petition with the local juvenile and domestic relations district court.

~~K. I.~~ When petitioning the local juvenile and domestic relations district court for approval of an entrustment agreement, ~~§ 16.1-277.01 of the Code of Virginia requires that the licensed independent foster home, as a child welfare agency, shall file a foster care plan with the court pursuant to § 16.1-277.01 of the Code of Virginia.~~

~~L. J.~~ The foster care plan shall meet the requirements established in § 16.1-281 of the Code of Virginia.

22VAC40-141-87. Placing agreement requirements.

~~A. A written placing agreement or temporary entrustment agreement shall be received on every child placed directly by the child's parents or guardians in the independent foster home.~~

~~B.~~ Prior to entering into a placing agreement, the provider shall consider:

1. The needs of the child and whether the independent foster home can meet those needs;
and
2. The needs of any other children residing in the independent foster home; ~~and~~
3. ~~The impact of the individual child joining the household.~~

G. B. A placing agreement shall:

1. Allow the child's parents ~~or guardians~~ to retain legal custody of the child during the placement in the independent foster home;
2. Be for a placement of less than 180 days. If the provider, ~~at any time,~~ becomes aware that the placement will exceed 179 days, the provider shall contact the local department of social services and request an assessment of the child and an evaluation of services needed and to determine if a petition to assess the care and custody of the child should be filed in the local juvenile and domestic relations district court;
3. Include identifying information, including:
 - a. ~~Proof of identity of the child;~~
 - b. a. The child's name;
 - c. b. Date of birth;
 - d. ~~Sex~~ c. Gender; and
 - e. d. Date of placement;
4. Address the acquisition of and consent for medical treatments needed by the child and include ~~Medicaid or other~~ health insurance information;
5. Address the rights and responsibilities of each party the individual parties involved;

6. Address the responsibilities of the child's parents ~~or legal guardians~~ for financial support; and

7. Be signed by the child's parent ~~or legal guardian~~ and the foster parent no later than the child's placement in the independent foster home.

~~D. A~~ C. No placing agreement shall ~~not~~ extend beyond the child's 18th birthday.

~~E. D.~~ The parents ~~or guardians~~ may request the return of a child ~~at any time~~ prior to the 180th day of a placing agreement.

~~F. E.~~ The placing agreement shall be considered revoked upon the parents' ~~or guardians'~~ request.

~~G. Each subsequent~~ F. Subsequent placing agreement agreements for the same child shall be considered an extension of the placement and whenever the child has been in the independent foster home for a total of 180 days the provider shall contact the local department of social services and request an assessment of the child and an evaluation of services needed to determine if a petition to assess the care and custody of the child should be filed in the local juvenile and domestic relations district court.

22VAC40-141-90. Supervision of children in care.

A. The provider is responsible at all times for the safety and supervision of children placed in the independent foster home.

B. A The provider shall maintain contact information for a responsible adult ~~shall always~~ who can be available to substitute in case of an emergency.

~~C. There shall be documentation of the name, address, telephone number of this adult, along with a signed statement of agreement to serve as a substitute.~~

~~D. Children shall be supervised in a manner which ensures that the caregiver is aware of what the children are doing at all times and can promptly assist or redirect activities when necessary.~~

~~E. C.~~ In deciding how closely to supervise children, providers shall consider the:

- ~~1. The ages Developmental abilities of the children; and~~
- ~~2. Individual differences and abilities of the children;~~
- ~~3. The layout of the house and play area, including neighborhood circumstances or hazards; and~~
- ~~4. Risk of the activities children are engaged in.~~

~~F. Children under the age of six and children with special needs shall be within sight or sound supervision at all times.~~

~~G. Providers shall not bathe with a child unless recommended by a physician.~~

~~H. Providers shall ensure the safety of children at all times during diapering.~~

22VAC40-141-100. Capacity.

~~A. The provider shall not exceed the maximum capacity stipulated on the license.~~

~~B. The maximum number of children in an independent foster home shall be eight, including the children of the provider and any other children who reside in the home, with the following conditions:~~ An exception may be granted by the licensing authority for sibling groups which may cause the home to exceed the licensed capacity.

- ~~1. The adult caretaker to child ratio shall be one to four for (i) preschool children during the regular waking hours and (ii) children with special needs, as indicated by a licensed physician or licensed clinical psychologist, during the regular waking hours.~~

2. ~~B.~~ The capacity of a an independent foster home shall also be based on the physical accommodations of the home, the abilities and experience of the provider, the needs of the children already in the home and children to be placed, and the number of assistants.

~~3. An adult household member shall not be considered an adult caretaker unless the individual actively participates in the care and supervision of the children.~~

22VAC40-141-110. Essentials for each the child.

A. The diet for children shall be well-balanced and appropriate to the daily nutritional needs and religious dietary practice of each the child.

~~B. Special diets shall be provided as prescribed by a physician or dentist for individual children and established religious dietary practices for each child shall be observed.~~

~~C.~~ B. Clothing, towels, ~~wash cloths~~ washcloths, toothbrushes, combs and ~~hair brushes~~ hairbrushes, and other personal needs shall be provided for each the child on an individual basis and shall be kept clean and replaced as needed.

~~D. Clothing shall be kept clean, in good repair, and appropriate for the age and size of each child.~~

~~E.~~ C. Drinking water shall be readily available ~~at all times~~ unless prohibited by a physician's order.

~~F. Normal activities of daily living such as meals appropriate to the child's nutritional needs, time for sleep and rest appropriate to the child's age, bathing, etc., shall be opportunities for teaching and guiding behavior.~~

~~G. To the extent that normal activities of daily living are used to teach and guide behavior, the provider's actions shall not be extreme, unusual or abusive.~~

22VAC40-141-120. Transportation of children.

A. The provider shall have transportation available ~~at all times~~ in case of an emergency.

B. Any An individual who transports children shall have a valid driver's license and vehicle liability insurance.

C. Providers and any individuals who transport children shall assure that all passengers use safety belts and child restraint devices in accordance with Virginia law.

D. ~~The~~ No provider and assistant transporting children shall ~~not~~ have driving violations ~~on file with the Department of Motor Vehicles~~ related to driving under the influence of alcohol or drugs, reckless driving, or ~~any offense~~ offenses which ~~places~~ place other occupants of the vehicle at risk within the five years prior to the application, and thereafter as a condition of continued licensure.

E. ~~A copy of the provider's and the assistant's driving record~~ Driving records obtained from the Department of Motor Vehicles for the provider and assistants who are expected to transport children shall be provided to the licensing representative upon application and at the time of submitting a renewal application.

~~F. Driving violations as described in this section shall be reported to the licensing representative within 24 hours.~~

~~G. The provider shall not knowingly allow children to be transported by any person who has driving violations on file with the Department of Motor Vehicles related to driving under the influence of alcohol or drugs, reckless driving, or any other offense that places other occupants of the vehicle at risk within the previous five years.~~

~~Exception: The parents or legal guardians of a child shall not be prohibited from transporting their child as a result of this requirement unless it poses an immediate danger to the health and safety of that child.~~

22VAC40-141-130. Medical care of children.

A. The provider shall have the name, address and telephone number of each the child's physician easily accessible.

B. The provider shall have readily available basic first aid supplies easily accessible for use with injuries and accidents ~~to adults in the home, but not accessible to children under the age of~~ 13.

C. First aid supplies shall include:

1. ~~Scissors;~~
2. ~~Tweezers;~~
3. ~~Sterile nonstick gauze pads;~~
4. ~~Adhesive bandages in assorted sizes;~~
5. ~~A sealed package of alcohol wipes or antiseptic cleansers;~~
6. ~~A thermometer;~~
7. ~~A chemical cold pack if an ice pack is not available;~~
8. ~~First aid instruction manual or cards;~~
9. ~~An insect bite or sting preparation;~~
10. ~~One triangular bandage;~~
11. ~~Current activated charcoal and syrup of ipecac to be used only when instructed by the regional poison control center or child's physician;~~
12. ~~Flexible roller or stretch gauze;~~
13. ~~Disposable nonporous gloves; and~~

~~14. An eye dressing or pad.~~

~~D. C.~~ The provider shall receive medical history information, including:

1. Immunizations received; If a child's parent objects to the child receiving immunizations or a physical examination on religious grounds, the parent must submit a signed statement noting the objection on religious grounds and certifying to the best of the parent's knowledge, the status of the child's health; and

2. Documentation for ~~each~~ the child at the time of placement of a physical examination of the child completed within 90 days before placement, or the child shall receive a physical examination within 30 days after placement. The current form required by the Virginia Department of Health or ~~any other~~ a form which provides the same information to report immunizations received and the results of the physical examination shall be used; and

3. Dietary restrictions or nutritional needs as ordered by a doctor or medical provider.

~~Exception: If a child's parent objects to the child receiving immunizations or a physical examination on religious grounds, the parent must submit a signed statement noting the objection on religious grounds and certifying to the best of the parent's knowledge, the status of the child's health.~~

~~E. D.~~ The provider shall ensure that the child receives necessary medical care and follow-up.

~~F. E.~~ The provider shall:

1. Give prescription drugs to children in care only in accordance with an order signed by a licensed physician or authentic prescription label; and

2. Keep ~~all~~ prescription and nonprescription medications inaccessible to children under ~~the age of 13~~ years of age and stored as instructed by the physician or pharmacist.

a. The provider shall keep in the child's record daily documentation of all prescription and nonprescription medication administered to a child in care.

~~Exception: Providers are not~~ b. No provider is required to record the amount of diaper ointment or sunscreen applied.

~~b. Out-of-date and unused medications shall be properly discarded or returned to the child's parent or guardian.~~

G. F. The provider may permit self-administration of medication by a child in care if:

1. The child is physically and mentally capable of properly taking medication without assistance; and

2. The provider maintains a written statement from the parent or a physician documenting the child's capacity to take medication without assistance.

~~3. The provider assures that the child's medications and any other medical supplies are not accessible to children under the age of 13.~~

H. G. The provider shall report ~~all major~~ serious incidents related to illnesses, injuries, accidents, missing children, the death of a child, and ~~any~~ placement of a child outside of the independent foster home within 24 hours to:

1. The licensing representative; and

2. The child's parent.

~~I. If the provider is not able to contact the parent or guardian, attempted contacts shall be documented.~~

~~J. The provider shall receive written authorization for routine and emergency medical and dental care for each child.~~

22VAC40-141-140. Disease prevention. (Repealed.)

~~A. Children's hands shall be washed with soap and water before eating meals or snacks, after toileting, and after any contact with body fluids.~~

~~B. The provider and assistant shall wash their hands with soap or a germicidal cleansing agent after:~~

~~1. Diapering a child;~~

~~2. Helping a child with toileting, personal toileting, any contact with body fluids; and~~

~~3. Before handling food, feeding or helping a child with feeding.~~

~~C. When a child's clothing or diaper becomes wet or soiled, it shall be changed immediately.~~

~~D. When a child's diaper is changed, the soiled area shall be thoroughly cleaned with a disposable wipe.~~

~~E. Surfaces used for changing diapers shall be used for that purpose alone.~~

~~F. Diapering surfaces shall be washed with soap and water or a germicidal agent after each use.~~

~~G. The provider shall keep surfaces for preparing and eating food sanitary.~~

22VAC40-141-150. Discipline of children.

~~A. Discipline shall be constructive in nature, and emphasize positive approaches to managing the child's behavior, and~~

~~1. The provider shall establish rules and expectations that encourage and teach desired behaviors and discourage undesired behavior.~~

~~2. The provider shall explain the house rules and expectations and the behavior management approach to each child who is old enough to understand.~~

B. There shall be no physical punishment, rough play or severe disciplinary action administered to the child's body ~~such as, but not limited to,~~ including spanking, striking or hitting with a part of the body or an implement, pinching, pulling or roughly handling a child, shaking a child, forcing a child to assume an uncomfortable position (e.g., standing on one foot, keeping arms raised above or horizontal to the body), restraining to restrict movement through binding or tying, enclosing in a confined space, or using exercise as punishment.

C. ~~Physical~~ No physical restraint shall ~~not~~ be used on children in care. "Physical restraint" means restraining a child's body movements by means of "physical crisis intervention techniques" or a therapeutic intervention utilizing adult physical contact only, as a short-term, emergency means of managing out-of-control behavior. It is not intended to mean everyday, commonly-accepted parenting practices and interventions such as holding a child to prevent falling or crossing into the path of a moving vehicle, or holding a child's hand to prevent placing it on a hot stove, etc.

D. The provider shall not:

- ~~1. Make threats;~~
- ~~2. Make~~ make belittling remarks about any a child, the child's family, the child's race, religion, or cultural background;
- ~~3. Use profanity; or~~
- ~~4. Make other statements that are frightening or humiliating to the child.~~

E. When separation or time-out is used as a discipline technique, it shall be brief and appropriate to the child's developmental level ~~and circumstances~~ and within hearing and vision of the provider or assistant.

~~F. The child who is separated from others shall be:~~

~~1. In a safe, lighted, and well-ventilated place;~~

~~2. Not confined or locked in a room or compartment; and~~

~~3. Within hearing and vision of the provider or assistant at all times if under the age of 13 or diagnosed with special needs.~~

~~G. Children age 13 and older shall be within hearing or vision of the provider or assistant at all times when separated from others for disciplinary reasons.~~

~~H. Children under the age of 13 or those with special needs shall not be placed in time out for periods of time exceeding one minute for each year of age.~~

~~I. E. Time-out shall not be used for children under two years of age.~~

~~J. G. The provider shall not subject children to cruel, severe, humiliating, or unusual actions.~~

~~K. H. The provider shall not delegate discipline or permit punishment of a child by another child or by an adult not known to the child.~~

~~L. I. The provider shall not deny a child contact or visits with his the child's family as a method of discipline.~~

22VAC40-141-160. Activities for children.

~~A. The provider shall provide daily indoor and outdoor recreational and other activities appropriate to the needs, interests, and abilities of the children in care.~~

~~B. Each child shall also be permitted to have individual free time as appropriate to the child's age and ability.~~

22VAC40-141-170. Abuse and neglect reporting responsibilities of providers.

~~A. The provider shall immediately report any suspected abuse and neglect of any a child in care to child protective services and to the licensing representative.~~

~~B. The provider shall comply with, pursuant to § 63.2-1509 of the Code of Virginia.~~

22VAC40-141-180. Services to children.

A. The provider shall arrange for necessary services, as specified in the foster care service plan or individual service plan, and as recommended by a licensed physician or other professional working with the child, where applicable. These services may include, ~~but are not limited to:~~

1. Professional evaluations and counseling;
2. Educational services and tutoring; and
3. Transportation to necessary appointments and services.

~~Note:~~ Individually planned interventions intended to reduce or ameliorate ~~any~~ a diagnosed physical, mental or emotional ~~disabilities should~~ disability shall be performed by, in conjunction with, or under the written direction of a licensed practitioner.

B. The provider shall enroll ~~each~~ a school-age child in school ~~within five~~ immediately but no more than three days after placement when school is in session.

C. The provider shall promote the child's education by:

- ~~1. Giving the child educational guidance and counseling in the child's selection of courses;~~
- ~~2. Establishing contact with the child's school; and~~
- ~~3. Working~~ working with the child's school to promote academic achievement and to resolve any problems brought to the provider's attention by the school.

D. In accordance with § 16.1-281 of the Code of Virginia, the independent foster home, as a licensed child-welfare agency, shall prepare and submit to the local juvenile and domestic relations district court a foster care service plan on ~~every~~ the child entrusted to the provider by an entrustment agreement pursuant to § 16.1-277.01 of the Code of Virginia (i) within 30 days of

signing the ~~child's~~ temporary entrustment agreement for placements of 90 days or more or (ii) within 60 days of signing the temporary entrustment agreement for placements for less than 90 days, unless the child is returned to the child's parents ~~or guardians~~ within 60 days of placement in the independent foster home.

E. The foster care service plan shall include the elements as outlined in § 16.1-281 of the Code of Virginia including:

1. The reasons the child is placed with the independent foster home;
2. A summary of the child's situation at the time of placement in relation to the child's family. The summary shall include information about:
 - a. The child's health; and
 - b. The child's educational status;
3. The permanency planning goal recommended for the child, including the projected length of stay in the independent foster home;
4. A description of the needs of the child and the child's family;
5. The programs, care, services, and other support that the independent foster home will offer or arrange for the child and the child's parents ~~or guardians~~ to meet those needs;
6. The target dates for completion of the services provided or arranged for the child and the child's family;
7. The participation, conduct, and financial support that will be sought from and the responsibilities of the child's parents ~~or guardians~~;
8. The visitation or other contacts to be held between the child and the child's parents ~~or guardians~~; and

9. In writing and where appropriate for children age 16 years of age and older, the programs and services which will help the child prepare for the transition from foster care to independent living; and

~~10. A copy of the independent foster home license.~~

F. For ~~every~~ a child placed in the independent foster home by a placing agreement, the provider, with the assistance of the parents ~~or legal guardians~~, shall prepare an individualized service plan at the time of admission.

G. Copies of the child's individualized service plan shall be provided to the parents ~~or legal guardians~~, and to the child, if age 13 years of age or older or upon the child's request, ~~and a copy filed in the child's record.~~

H. The ~~written~~ individualized service plan shall:

1. Outline the services needed and those that will be provided to the child and ~~his~~ the child's family; and
2. Identify the goals and objectives designed to reunite the child with ~~his~~ the child's family.

I. The individualized service plan shall describe:

1. The reasons why the child is placed in the independent foster home;
2. A summary of the child's situation at the time of placement in relation to the child's family, including a statement of the child's health and educational status;
3. A description of the child's needs;
4. The goals for the child, including the projected length of placement in the independent foster home;

5. The programs, care, services and other means of support that the independent foster home will offer or the arrangements for the child and the child's parent ~~or guardian~~ to provide services or supports;

6. Projected dates for completion of services provided or arranged for the child;

7. Projected level of involvement of the child's parents ~~or guardians~~ and visitation arrangements;

8. Where appropriate for children age 16 years of age and older, the programs and services that will help the child prepare for independent living.

J. The individualized service plan shall be updated at least every 30 days.

K. In accordance with federal and state law, the provider shall ensure that the child's health and safety are the paramount concern throughout the placement, case planning, service provision and review process.

L. If consistent with the child's health and safety, the foster care plan or individualized service plan shall be designed to support reasonable efforts which lead to the return of the child to ~~his~~ the child's parents ~~or guardians~~ within the shortest feasible time, which shall be specified in the plan.

M. If the provider determines that it is not reasonably likely that the child can be returned to the child's prior family within a feasible time, consistent with the best interests of the child, and in a separate section of the foster care plan or individualized service plan, the provider shall:

1. Describe the reasons for this conclusion; and
2. Determine and describe the opportunities for the court to consider placing the child with a relative or for the court to refer the child and the child's family to the local department of social services for further services and permanency planning.

N. The provider shall submit the child's foster care plan or individualized service plan at the time of petitioning the local juvenile and domestic relations district court for approval of the entrustment agreement or to assess the care and custody of the child, whichever is appropriate.

O. The provider shall participate in all court hearings involving the child, as long as the child is placed in the independent foster home.

P. The provider shall include:

1. The child whenever possible and appropriate to the child's age and development;
2. The parents or prior guardians of the child; and
3. Professionals involved with the child in the development of the foster care service plan or individualized service plan.

Q. The provider shall follow the requirements of § 16.1-282 of the Code of Virginia related to the review of the foster care service plan and shall petition the local juvenile and domestic relations district court within five months of the court's approval of the entrustment agreement or within five months of the dispositional hearing at which the initial foster care plan was reviewed.

22VAC40-141-190. Physical accommodations in the independent foster home.

A. The independent foster home shall be clean and have sufficient space and furnishings for ~~each~~ a child receiving care in the independent foster home to include:

1. Space to meet the needs of the independent foster home family in addition to that required for the foster children placed in the independent foster home;
2. Bedrooms which are not used as passageways and which have doors for privacy;
3. Space for ~~each~~ the child to keep clothing and other personal belongings;
4. Indoor bathing and toilet facilities in good working order with a door for privacy;

5. At least one toilet, basin, and tub or shower shall be available for every eight persons;

6. A separate, comfortable bed for each the child and sufficient bedding to ensure cleanliness and comfort. A crib that meets current Consumer Product Safety Commission standards (~~16 CFR Parts 1508 and 1509~~) shall be provided for infants and children not developmentally ready to sleep in a bed. ~~Exception: Two siblings of the same sex may occupy a double bed;~~ and

7. Sleeping space on the first floor for children unable to use stairs unassisted, except children who can easily be carried.

B. ~~All rooms~~ Rooms used by children shall be heated to at least 68°F in winter, and cooled as appropriate, dry and well-ventilated.

~~C. A child safe, mechanical cooling device, e.g., an electric fan or air conditioner, shall be used when the temperature inside the room exceeds 80°F.~~

~~D. All doors and windows used for ventilation shall be screened.~~

~~E. C.~~ Rooms used by children shall be well-lighted for activities and the comfort of children.

~~F. D.~~ The independent foster home shall have a working telephone available to all household members for use in case of emergency.

~~G. The telephone number shall be provided to:~~

~~1. The licensing representative;~~

~~2. Parents and legal guardians of children placed in the home; and~~

~~3. Children when they are away from the home.~~

~~H. E.~~ No more than four children shall occupy one bedroom.

1. Children of the opposite ~~sex over the~~ gender over three years of age ~~of two~~ shall not share a bedroom.

2. Children shall not share a bed or bedroom with the provider or other adult.

~~I. F.~~ F. There shall be at least three feet between ~~each bed~~ beds and sufficient space for each the child to move about safely.

~~J. There shall be provision for isolation of sick children.~~

~~K. If the licensing representative observes conditions that indicate the need for an inspection by the local health department and makes this request of the provider, the provider shall comply and provide a copy of the report to the department.~~

~~L. G.~~ G. The provider shall ensure that a smoke-free environment is provided in rooms accessible to children while children are in care.

22VAC40-141-200. Home safety.

~~A. The provider shall have a plan for seeking assistance from police, firefighters, poison control, and medical professionals in an emergency.~~

~~B. The telephone numbers for police, firefighters, poison control, and medical professionals shall be posted next to each telephone.~~

~~C. B.~~ B. The independent foster home and grounds:

1. Shall be clean and in good physical repair; and

~~2. Shall be free of litter, debris, peeling or chipped paint, hazardous materials, and infestations of rodents and insects; and~~

~~3. 2.~~ 2. Shall ~~present no~~ be free from hazard to the health and safety of the children receiving care.

D. C. The provider shall:

1. ~~Have~~ have a written, posted emergency evacuation plan; and
2. ~~Rehearse the plan at least monthly.~~

E. D. Within the first 48 hours of a child's placement in the home, the provider shall review the plan with each the child ~~who is old enough to understand.~~

F. E. If the provider possesses firearms, ammunition, and other weapons, the provider shall keep the firearms unloaded and locked and other weapons locked.

G. F. Ammunition shall be locked in a separate location.

H. G. The provider shall keep cleaning supplies and other toxic substances:

1. Stored away from food; and
2. Locked or out of the reach of children under the age of 13 years of age.

I. ~~When infants or children who are not developmentally ready to climb or descend stairs are in the home, the provider shall have protective barriers installed securely at each opening to stairways.~~

J. ~~Swimming and wading pools shall be set up according to the manufacturer's instructions.~~

K. H. Outdoor swimming pools shall be enclosed by safety fences and gates with child-resistant locks.

L. ~~Wading pools shall be:~~

1. ~~Emptied and stored away when not in use; and~~
2. ~~Filled with clean water before the next use.~~

~~M. Radiators, oil and wood burning stoves, floor furnaces, portable electric space heaters, fireplaces, and similar heating devices used in areas accessible to children under the age of 13 shall have protective barriers or screens.~~

~~N. All interior and exterior stairways with over three risers shall have hand rails at a height accessible to the children in the home.~~

~~O. Independent foster homes that provide care to preschool-age children or to developmentally delayed children of comparable maturity to a preschool child shall have protective, child-resistant covers over all electrical outlets.~~

~~P. The covers shall not be of a size to present a swallowing or choking hazard.~~

~~Q. I. The provider shall comply with the requirements for state regulated care facilities relating to smoke detectors and fire extinguishers.~~

~~R. Infants shall be placed to sleep on a firm, tight-fitting mattress in a crib that meets current safety standards.~~

~~S. To reduce the risk of suffocation, soft bedding of any kind shall not be used under or on top of the infant including, but not limited to, pillows, quilts, comforters, sheepskins, or stuffed toys.~~

~~T. Infants shall be placed on their backs when sleeping or napping unless otherwise directed by the child's physician.~~

~~U. If an individual child's physician contraindicates placing the child in this position, the provider shall maintain a written statement, signed by the physician, in the child's record.~~

J. The provider shall follow safe sleep practices as outlined by the American Academy of Pediatrics.

~~V. K. Bunk beds or double decker beds shall have safety rails or mechanisms in place to reduce the risk of falls.~~

1. Children ~~No children~~ under age ~~10~~ 7 years of age or children with motor or developmental delays shall not use the upper levels of a double decker or bunk bed.

2. ~~Children of any age who have motor or developmental delays shall not use the upper bunk.~~

~~W. Pets~~ L. The provider shall be immunized for rabies and shall be treated for fleas, ticks, worms or other diseases as needed. maintain documentation that household pets receive tests, inoculations, and licenses as required by law.

~~X. Providers shall instruct children on safe and hygienic procedures to follow when handling, feeding or in close proximity to animals.~~

22VAC40-141-210. Record requirements.

A. The provider shall maintain a separate record with written information on each a child in care.

B. Records shall be kept for at least one year from the date of discharge.

C. Information in the child's record shall include:

1. The temporary entrustment agreement or placing agreement between the provider and parent. The temporary entrustment agreement or placing agreement shall include:

~~a. Identifying information, including proof of identity on the child, including:~~

~~(1) Name;~~

~~(2) Date of birth;~~

~~(3) Sex; and~~

~~(4) Date of placement;~~

- ~~b. The fees for foster care and other expenses and payment arrangements, including financial support from the parents or guardians;~~
- ~~c. The child's:~~
 - ~~(1) Social security number;~~
 - ~~(2) a. The child's Medicaid or other insurance carrier and number; and~~
 - ~~(3) Other information necessary to secure services for the child, including permission to receive b. Written authorization for routine and emergency medical and dental care for each child; and~~
- ~~d. c. Arrangements for visits by parents and other family members;~~
- ~~e. Rights and obligations of the child, the parents or guardians, and the independent foster home; and~~
- ~~f. Signatures of the parent or guardian and the independent foster parent;~~
- 2. Name, address and telephone numbers of parents and public or private agencies involved with the child, including the name of the assigned agency worker where appropriate;
- 3. The reason the child is placed in the independent foster home;
- ~~4. Name and telephone number of persons to be called in an emergency when the responsible person cannot be reached;~~
- ~~5. 4. Names of persons who are authorized to call or visit the child;~~
- ~~6. 5. Medical information pertinent to the health care of the child, including a list of all prescription and nonprescription medication the child receives;~~
- ~~7. 6. Copies of the foster care or individualized service plans;~~

~~8.~~ 7. Correspondence and other documentation related to the child, including school records;

~~9.~~ 8. Reports of accidents, major injuries, illnesses and serious incidents, ~~such as runaways, destruction of property, assaults on others and suicide threats or attempts;~~

~~10.~~ The copy of the petition filed with the juvenile and domestic relations court if the child cannot return home within the time frames designated by the entrustment or placing agreement;

~~11.~~ 9. Copies of all related documents filed at and received from the court;

~~12.~~ 10. Services provided each week to the child by the provider and by other resources and services provided to the parent or guardian by the provider, if applicable, or by other resources, when known; and

~~13.~~ 11. Reasons the child was discharged and the date of discharge from the home.

~~D.~~ The agreement shall be signed on or before the date the child is placed in the home.

~~E.~~ D. A copy of the agreement shall be given to the parent or guardian.

~~F.~~ E. Within 30 days after discharge, the provider shall prepare a brief summary of the child's behavioral, educational, and medical progress while in the home, and a statement as to whether the goals of placement were accomplished.

~~G.~~ F. A copy of this discharge report shall be:

1. Given to the parents or legal guardians within 45 days of discharge; and

2. Sent to the local juvenile and domestic relations district court whenever the court has approved the temporary entrustment agreement and the foster care service plan or a petition has been made to the court.

FORMS (22VAC40-141)

Home Study Assessment for Independent Foster Homes (eff. 7/04/05/2025).