STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S RESIDENTIAL FACILITIES

Commonwealth of Virginia

Department of Education

Department of Juvenile Justice

Department of Mental Health, Mental Retardation and Substance Abuse Services

Department of Social Services

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FOREWARD

The Interdepartmental Regulation Program is a joint effort of the Departments of Education (DOE); Juvenile Justice (DJJ); Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS); and Social Services (DSS) to cooperatively regulate most of Virginia's public and private sector children's residential facilities. The program is designed to carry out the departments' regulatory responsibilities more effectively and efficiently than the fragmented efforts that preceded the interdepartmental program's development.

The *Report of the Subcommittee on the Placement of Children* [House Document Number 16 (1977)] criticized the regulatory efforts of the departments as being uncoordinated and duplicative. The Subcommittee indicated that it would be ideal if there was one joint evaluation of each facility and if regulations were uniform among agencies. In response to this report, the departments entered an agreement pledging cooperation in the development of an interdepartmental regulatory program.

The four departments and representatives of residential facilities developed a set of "core" standards for use in regulating residential facilities. The "core" standards establish the minimum level of regulation that is necessary to provide protection and treatment/programming to vulnerable children in out-of-home care.

The original *Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children* were effective July 1, 1981. Substantially revised *Core Standards* were promulgated with an effective date of July 1, 1986.

The *Core Standards* were revised, effective July 1, 1989, to: (1) amend and clarify the requirements governing management of residents' behavior, and (2) to abolish the practice of considering that facilities which successfully met the requirements of national recognized standards setting agencies also met the requirements of the interdepartmental licensure/certification process.

Amendments to the sections of the standards governing staff supervision of children were effective April 1, 1991, and the standards were named the *Standards for Interdepartmental Regulation of Residential Facilities for Children*.

As mandated by amendments to the *Code of Virginia*, revisions were effective October 9, 1991, to the sections governing (1) fire inspections of residential facilities and (2) admissions requirements for temporary care facilities regulated by the Department of Social Services.

Amendments to the sections governing management of resident behavior were effective February 12, 1992.

As mandated by amendments to the *Code of Virginia*, revisions were effective May 4, 1994, to the sections concerning fiscal accountability. Amendments to the sections governing intake and service planning were also effective on this date.

As mandated by amendments to the *Code of Virginia*, revisions were effective February 1, 1995, to the sections concerning participation of residents as subjects of human research. As permitted by amendments to the *Code of Virginia*, changes also were effective on that date to the sections governing the duration of licenses/certificates.

The Interdepartmental Regulations for Residential Facilities for Children were repealed effective July 1, 2000. Revised Interdepartmental Regulations for Children's Residential Facilities became effective July 1, 2000.

Attaining and maintaining compliance with these standards are prerequisites for issuance and maintenance of a license or certificate to operate. Failure to maintain compliance with standards or applicable requirements of the *Code of Virginia* constitutes grounds for revocation of a license/certificate or for lesser sanctions.

These *Standards for Interdepartmental Regulation of Children's Residential Facilities* were promulgated in compliance with the provisions of Virginia's Administrative Process Act (§ 9-6.14:1 et. seq. of the *Code of Virginia*) in accord with the statutory authority of the agencies' boards to promulgate regulations.

Supplementary material is inserted following many sections and is intended:

- to clarify the standards;
- to provide facility personnel and regulators with the methodologies for determining compliance;
- to facilitate consistent and equitable interpretation and application of the standards; and
- to serve as a resource for staff training and development.

Users are encouraged to report any errors or other problems encountered in use of this manual to the Office of Interdepartmental Regulation.

The Office of Interdepartmental Regulation is the office that coordinates the children's residential regulatory activities conducted by the four departments. It facilitates the development of regulations and conducts training for regulatory personnel and providers of children's residential services on a variety of topics. This office also processes background checks for facilities licensed by the Departments of Education; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services.

The Office of Interdepartmental Regulation does not actually conduct licensing visits, but assigns a lead regulatory agency to conduct all licensing activities. The lead regulatory agency is assigned according to the primary focus of the residential program, the services to be provided, the qualifications of the staff, and the population to be served. More than one agency may have regulatory authority for a facility, but the lead agency will be responsible for facilitating licensing visits and issuing the license. Facilities who are

regulated by the Departments of Education; Juvenile Justice; or Mental Health, Mental Retardation and Substance Abuse Services will also be regulated under additional module standards specific to the populations served.

DETERMINING COMPLIANCE

Regulatory personnel determine the level of compliance with standards. Regulators are instructed to use reasonableness when making determinations. There are four findings which a regulator may reach concerning a facility's level of compliance with a standard:

- "In Compliance" means that the regulator has determined that the facility is clearly and totally in compliance with all parts of the standard. When there are minor violations of regulations that do not directly affect life, health and safety (i.e. a missing element in one record of a sample reviewed) the regulator should use reasonableness in citing a violation.

- "Noncompliance" means that the regulator has determined that the facility is clearly in noncompliance with a part of the standard or that a minor lapse in practice is indicative of a systemic problem.

- "Not Applicable" means that the regulator has determined that the standard clearly does not apply to the facility.

- "Not Determined" means that the regulator, after following compliance determination methods, cannot determine whether the facility is or is not in compliance. Not determined is not used when regulatory personnel cannot reach agreement about compliance.

When a regulator encounters situations where a facility could be cited for multiple standards violations as a result of a single lapse in practice, the regulator evaluates the incident and determines whether there is a major or minor lapse in practice.

When a minor lapse in practice has occurred, the regulator determines whether the facility is in "compliance or "noncompliance," as appropriate, with each of the standards related to the minor lapse in practice. When noncompliance is identified, the regulator determines which standard is most directly related to the lapse in practice. The regulator cites only the single standard most directly related to the lapse in practice. Other related standards which might be cited receive ratings of in "compliance".

When a major lapse in practice has occurred, the regulator may, at the regulator's discretion, cite "noncompliance" with all standards related to the lapse in practice. Citing all applicable standards draws attention to the major lapse in practice, emphasizes the need for the facility to take corrective action, and clearly describes the nature and extent of the violations. The regulator may also issue a systemic deficiency to the facility which would indicate that there were defects in the overall operation of the facility or one or more or its components.

INFORMAL APPEALS PROCESS

An informal appeals process is utilized by each department. Each department's process contains common elements and is designed to: (1) ensure appropriate levels of review and consistency and (2) respond to licensee concerns in a timely manner. The facility may request a copy of the appeals process adopted by the lead regulatory agency.

APPLICABLE STATE REGULATIONS

The term "applicable state regulations" is used in numerous sections of the Interdepartmental Standards. Applicable state regulations include any regulation which the promulgating state agency determines to be applicable to the facility. Examples include modules, standards, and other regulations promulgated by the Departments of Education; Health; Housing and Community Development; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; or other state agencies.

LEGAL BASE

The *Code of Virginia* is the basis for the requirement that private residential facilities for children be licensed, certified and approved. It also authorizes the several Departments to operate or reimburse certain public facilities.

The State Board of Juvenile Justice and the Department of Juvenile Justice are responsible for approval of facilities used for the placement of court-referred juveniles, as specified by § 66-13 and §66-14 of the *Code of Virginia*, for promulgating a statewide plan for detention and other care facilities and for prescribing standards for such facilities pursuant to § 16.1-309.9 of the *Code of Virginia*, and for establishing and maintaining a system of community group homes or other residential care facilities pursuant to § 66-24 of the *Code of Virginia*.

The State Board of Education is responsible for issuing certificates to operate (licenses) for residential schools for children with disabilities in the Commonwealth of Virginia, as specified in Chapter 16 of Title 22.1 (§22.1-319 through § 22.1-335) of the *Code of Virginia*. It is further responsible for the general supervision of the public school system for all school age residents of Virginia (for children with disabilities, ages 2-21) and for approval of private nonsectarian education programs for the children with disabilities, as specified by § 22.1-218 of the *Code of Virginia*.

The Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for licensing/certifying facilities or institutions for the mentally ill, mentally retarded, and substance abusers within the Commonwealth of Virginia, as specified in Chapter 8 of Title 37.1 (§37.1-179 through § 37.1-189) of the *Code of Virginia*.

The Department of Social Services is responsible for licensing/certifying certain child welfare agencies and facilities in Virginia, as specified in Chapter 10 of Title 63.1 (§ 63.1-195 through § 63.1-219) of the *Code of Virginia*. It is also responsible for licensing/certifying local welfare/social services department "agency operated" group homes, as specified in § 63.1-56.1 of the *Code of Virginia*.

INTERDEPARTMENTAL AGREEMENT

An agreement for interdepartmental regulation of children's residential facilities was approved by the boards and agency heads of the departments. This agreement commits the above departments to apply the same standards to both public and private facilities and provides a framework for:

1. The joint development and application of licensure/certification standards;
2. A single coordinated licensure/certification process that includes;
3. A single application for appropriate licensure/certification;
4. A system for review of compliance with applicable standards;
5. A license/certificate issued under the authority of the appropriate department(s) or board(s);
6. Clear lines of responsibility for the enforcement of standards; and
7. An Office of Interdepartmental Regulation to provide central coordination and monitoring of the administration of the interdepartmental regulatory program.

PREAPPLICATION CONSULTATION SERVICES

Upon receipt of an inquiry or a referral, preapplication consultation services will be made available by the Office of Interdepartmental Regulation and the participating departments.

APPLICATION FORMS

The application for a license/certificate to operate a residential facility for children shall be available from the Office of Interdepartmental Regulation and the participating departments. All application forms and related information requests shall be designed to assure compliance with the provisions of standards and relevant statutes.

CHAPTER 10
PART I INTRODUCTION

22 VAC 42-10-10. Definitions

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

"Adaptive behavior" means the effectiveness or degree with which individuals with diagnosed mental disabilities meet the standards of personal independence and social responsibility expected of their age and cultural group.

"Allegation" means an accusation that a facility is operating without a license or receiving public funds for services it is not certified to provide.

"Applicable state regulation" means any regulation which the promulgating state agency determines applies to the facility. The term includes, but is not necessarily limited to modules, standards, and other regulations promulgated by the Departments of Education; Health; Housing and Community Development; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; or other state agency.

"Applicant" means the person, corporation, partnership, association or public agency which has applied for a license or certificate.

"Application" means a document completed by the facility to furnish the regulatory authority details about the facility's operations and includes certifications that the facility understands and intends to comply with regulatory requirements. An application includes inspection reports necessary to verify compliance with applicable requirements of other state agencies. An application is complete when all required information is provided and the application is signed and dated by the individual legally responsible for operation of the facility.

"Aversive stimuli" means physical forces (e.g. sound, electricity, heat, cold, light, water, or noise) or substance (e.g. hot pepper, pepper sauce, or pepper spray) measurable in duration and intensity which when applied to a client are noxious or painful to the client, but in no case shall the term "aversive stimuli" include striking or hitting the client with any part of the body or with an implement or pinching, pulling, or shaking the client.

"Behavior management" means those principles and methods employed by a licensee to help a child achieve positive behavior and to address and correct a child's inappropriate behavior in a constructive and safe manner, in accordance with written policies and procedures governing program expectations, treatment goals, child and staff safety and security, and the child's service plan.

"Body cavity search" means any examination of a resident's rectal or vaginal cavities except the performance of medical procedures by medical personnel.

"Boot Camp" means a facility specifically approved to operate with highly structured components including, but not limited to, military style drill and ceremony, physical labor, education and rigid discipline and no less than six months of intensive aftercare.

"Case record" or "Record" means up to date written or automated information relating to one resident. This information includes social and medical data, agreements, all correspondence relating to care of the resident, service plan with periodic revisions, aftercare plans and discharge summary, and any other data related to the resident.

"Chemical restraint" means use of any pharmacological substance for the sole purpose of controlling a resident's behavior in the absence of a diagnosed medical or psychiatric condition. Chemical restraint does not include the appropriate use of medications ordered by a licensed physician for treating medical or psychiatric conditions.

"Child" means any person legally defined as a child under state law. The term includes residents and other children coming in contact with the resident or facility (e.g. visitors). When the term is used, the requirement applies to every child at the facility regardless of whether the child has been admitted to the facility for care (e.g. staff/child ratios apply to all children present even though some may not be residents).

"Child placing agency" means any person licensed to place children in foster homes or adoptive homes or a local board of public welfare or social services authorized to place children in foster homes or adoptive homes.

"Child with special needs" means a child in need of particular services because the child has mental retardation, a developmental disability, mental illness, emotional disturbance, a substance abuse problem, is in need of special educational services, or requires security services.

"Child with a visual impairment" means one whose vision, after best correction, limits the child's ability to profit from a normal or unmodified educational or daily living setting.

"Client" means a person receiving treatment or other services from a program, facility, institution or other entity regulated under these standards whether that person is referred to as a patient, resident, student, consumer, recipient, family member, relative, or other term. When the term is used, the requirement applies to every client of the facility. Some facilities operate

programs in addition to the children's residential facility; the requirement applies only to the clients of the children's residential facility and not to clients participating in other programs.

"Complaint" means an accusation against a licensed or certified facility regarding an alleged violation of standards or law.

"Compliance Plan" means violations documented by the regulatory authority and the facility's corrective action to the documented violations within a specified time frame.

"Confined in detention with a suspended commitment to the Department of Juvenile Justice" means that a court has committed the juvenile to the Department of Juvenile Justice but has suspended the commitment and ordered the juvenile confined in a local detention home for a period not to exceed six months as found in §16.1-284.1.B in the *Code of Virginia.*

"Confinement" means staff directed temporary removal of a resident from contact with people through placing the resident alone in his bedroom or other normally furnished rooms. Confinement does not include timeout or seclusion.

"Contraband" means any item prohibited by law or by the rules and regulations of the agency, or any item which conflicts with the program or safety and security of the facility or individual residents.

"Corporal punishment" means punishment administered through the intentional inflicting of pain or discomfort to the body through (i) actions such as, but not limited to, striking or hitting with any part of the body or with an implement; (ii) through pinching, pulling, or shaking; or (iii) through any similar action which normally inflicts pain or discomfort.

"Day" means calendar day unless the context clearly indicates otherwise.

"Detention home" or "secure detention" means a local, regional or state, publicly or privately operated secure custody facility which houses juveniles who are ordered detained pursuant to the *Code of Virginia*. The term does not include juvenile correctional centers.

"DMHMRSAS" means the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"DOE" means the Department of Education.

"DSS" means the Department of Social Services.

"Emergency" means a sudden, generally unexpected occurrence or set of circumstances demanding immediate action. Emergency does not include regularly scheduled time off for permanent staff or other situations which should reasonably be anticipated.

"Emergency admission" means the sudden, unplanned, unexpected admittance of a child who needs immediate care except self admittance to a temporary care facility or a court ordered placement.

"Goal" means expected results or conditions that usually involve a long period of time and which are written in behavioral terms in a statement of relatively broad scope. Goals provide guidance in establishing specific short-term objectives directed toward the attainment of the goal.

"Good character and reputation" means findings have been established and knowledgeable and objective people agree that the individual maintains business or professional, family and community relationships which are characterized by honesty, fairness, truthfulness, and dependability, and has a history or pattern of behavior that demonstrates that the individual is suitable and able to care for, 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 references.

"Human research" means any systematic investigation utilizing human subjects which may expose such human subjects to physical or psychological injury as a consequence of participation as subjects and which departs from the application of established and accepted therapeutic methods appropriate to meet the subjects' needs.

"Immediately" means directly without delay.

"Independent living program" means a program that is specifically approved to provide the opportunity for the residents to develop the skills necessary to live successfully on their own following completion of the program.

"Individualized service plan" means a written plan of action developed, and modified at intervals, to meet the needs of a specific resident. It specifies short and long-term goals, the methods and time frames for reaching the goals and the individuals responsible for carrying out a plan.

"Interdepartmental standards" means the standards for residential care which are common to the departments and which must be met by a children's residential facility in order to qualify for a license or certificate.

"Intrusive aversive therapy" means a formal behavior management technique designed to reduce or eliminate severely maladaptive, violent, or self-

injurious behavior through the application of aversive stimuli contingent upon the exhibition of such behavior. Intrusive aversive therapy does not include verbal therapies, seclusion, physical or mechanical restraints used in conformity with the applicable human rights regulations promulgated pursuant to the *Code of Virginia*, or psychiatric medications which are used for purposes other than intrusive aversive therapy.

"Juvenile correctional center" means a secure custody facility operated by, or under contract with, the Department of Juvenile Justice to house and treat persons committed to the department.

"Legal guardian" means the natural or adoptive parents or other person, agency, or institution who has legal custody of a child.

"License or certificate" means a document verifying approval to operate a residential facility for children and which indicates the status of the facility regarding compliance with applicable state regulations.

"Licensee" means the person, corporation, partnership, association, or public agency to whom a license or certificate is issued and who is legally responsible for compliance with the standards and statutory requirements relating to the facility.

"Live in staff" means staff who are required to be on duty for a period of 24 consecutive hours or more during each work week.

"Living Unit" means the space in which a particular group of children in care of a residential facility reside. A living unit contains sleeping areas, bath and toilet facilities, and a living room or its equivalent for use by the residents of the unit. Depending upon its design, a building may contain one living unit or several separate living units.

"Mechanical restraint" means use of devices to restrict the movement of an individual or the movement or normal function of a portion of the individual's body, but does not include the appropriate use of those devices used to provide support for the achievement of functional body position or proper balance and those devices used for specific medical and surgical treatment or treatment for self-injurious behavior.

"Medication error" means that an error has been made in administering a medication to a resident when any of the following occur: (i) the wrong medication is given to a resident; (ii) the wrong resident is given the medication; (iii) the wrong dosage is given to a resident; (iv) medication is given to a resident at the wrong time or not at all; and (v) the proper method is not used to give the medication to a resident.

"Objective" means expected short-term results or conditions that must be met in order to attain a goal. Objectives are stated in measurable, behavioral terms and have a specified time for achievement.

"On duty" means that period of time during which a staff person is responsible for the supervision of one or more children.

"Parent" means a natural or adoptive parent or a surrogate parent appointed pursuant to DOE's regulations governing special education programs for students with disabilities. "Parent" means either parent unless the facility has been provided evidence that there is a legally binding instrument, a state law or a court order governing such matters as divorce, separation, or custody, which provides to the contrary.

"Pat down" means a thorough external body search of a clothed resident.

"Physical restraint" means the restraint of a resident's body movements by means of physical contact by staff members. Physical restraint does not include physical prompts or guidance used with individuals with diagnosed mental disabilities in the education or training of adaptive behaviors. (See definition of "adaptive behavior.")

"Placement" means an activity by any person which provides assistance to a parent or legal guardian in locating and effecting the movement of a child to a foster home, adoptive home, or to a residential facility for children.

"Premises" means the tracts of land on which any part of a residential facility for children is located and any buildings on such tracts of land.

"Program" means a combination of procedures or activities carried out in order to meet a specific goal or objective.

"Public funding" means funds paid by, on behalf of, or with the financial participation of the state Departments of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; or Social Services.

"Regulatory authority" means the department or state board that is responsible under the *Code of Virginia* for the licensure or certification of a residential facility for children.

"Resident" means a person admitted to a children's residential facility for supervision, care, training or treatment on a 24-hour per day basis. Resident includes children making preplacement visits to the facility. When the term is used, the requirement applies only to individuals who have been admitted to the facility and those making preplacement visits.

"Residential facility for children" or "facility" means a publicly or privately operated facility, other than a private family home, where 24-hour per day care is provided to children separated from their legal guardians and which is required to be licensed or certified by the *Code of Virginia* except:

1. Any facility licensed by the Department of Social Services as a child-caring institution as of January 1, 1987, and which receives no public funds; and

2. Private psychiatric hospitals serving children that are licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services under Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse, 12 VAC 35-102-10 et. seq.

Group homes are included under this definition of residential facility for children. Group home means a community-based, home-like single dwelling, or its acceptable equivalent, other than the private home of the operator, and serves up to 12 residents.

"Respite care facility" means a facility that is specifically approved to provide short-term, periodic residential care to children accepted into its program in order to give the legal guardians temporary relief from responsibility for their direct care.

"Responsible adult" means an adult, who may or may not be a staff member, who has been delegated authority and responsibility to make decisions and to take actions to manage the safety and well-being of children. The term implies that the facility has reasonable grounds to believe that the responsible adult has sufficient knowledge, judgment and maturity to handle the situation.

"Rest day" means a period of not less than 32 consecutive hours during which a staff person has no responsibility to perform duties related to the facility. Two successive rest days means a period of not less than 48 consecutive hours during which a staff person has no responsibility to perform duties related to the facility. Each successive rest day immediately following the second shall consist of not less than 24 additional consecutive hours.

"Right" is something to which one has a legal or contractual claim.

"Routine admission" means the admittance of a child following evaluation of an application for admission, completion of preplacement activities, and execution of a written placement agreement.

"Rules of conduct" means a listing of rules or regulations which is maintained to inform residents and others about behaviors which are not permitted and the consequences applied when the behaviors occur.

"Sanitizing agent" means a laundry bleach with an active ingredient of 5.25% sodium hypochlorite.

"Seclusion" means placing a resident in a room with the door secured in any manner that prevents the resident from opening it.

"Secure custody facility" means a detention home or a juvenile correctional center.

"Self-admission" means the admittance of a child who seeks admission to a temporary care facility as permitted by Virginia statutory law without completing the requirements for "routine admission."

"Severe weather" means extreme environment or climate conditions which pose a threat to the health, safety or welfare of residents.

"Shall" means an obligation to act is imposed.

"Shall not" means an obligation not to act is imposed.

"Standard" means a statement which describes in measurable terms a required minimum performance level.

"Strategies" means a series of steps and methods used to meet goals and objectives.

"Strip search" means a visual inspection of the body of a resident when that resident's outer clothing or total clothing is removed and an inspection of the removed clothing. Strip searches are conducted for the detection of contraband.

"Student/intern" means an individual who simultaneously is affiliated with an educational institution and a residential facility. Every student/intern who is not an employee is either a volunteer or contractual service provider depending upon the relationship among the student/intern, educational institution, and facility.

"Systemic deficiency" means violations documented by the regulatory authority which demonstrate defects in the overall operation of the facility or one or more of its components.

"Target population" means individuals with a similar, specified characteristic or disability.

"Temporary care facility" means a facility or an emergency shelter specifically approved to provide a range of services, as needed, on an individual

basis not to exceed 90 days except that this term does not include secure detention facilities.

"Therapy" means provision of direct diagnostic, preventive and treatment services where functioning is threatened or affected by social and psychological stress or health impairment.

"Timeout" means temporarily removing a resident and placing the resident alone in a special timeout room that is unfurnished or sparsely furnished and which contains few reinforcing environmental stimuli.

"Treatment" means any action which helps a person in the reduction of disability or discomfort, the amelioration of symptoms, undesirable conditions or changes in specific physical, mental, behavioral or social functioning.

"Variance" means temporary or permanent waiver of compliance with a standard or portion of a standard, or permission to meet the intent of the standard by a method other than that specified in the standard, when the regulatory authority, in its sole discretion, determines: (i) enforcement will create an undue hardship; (ii) the standard is not specifically required by statute or by the regulations of another government agency; and (iii) resident care will not be adversely affected. The denial of a request for a variance is appealable when it leads to the denial or revocation of a license or certificate.

"Wilderness camp" means a facility specifically approved to provide a primitive camping program with a nonpunitive environment and an experience curriculum for residents nine years of age and older who cannot presently function in home, school, and community. In lieu of or in addition to dormitories, cabins or barracks for housing residents, primitive campsites are used to integrate learning and therapy with real living needs and problems for which the resident can develop a sense of social responsibility and self worth.

22 VAC 42-10-20. Applications.

A. Initial applications

1. A completed application shall be submitted at least 60 days in advance of the planned opening date.

2. The applicant shall document funds or a line of credit sufficient to cover at least 90 days of operating expenses unless the facility is operated by a state or local government agency, board or commission.

3. A corporation, unincorporated organization or association, an individual or a partnership proposing to operate a facility shall submit with the initial application evidence of financial responsibility and sufficient funds to operate. This shall include:

a. A working budget showing projected revenue and expenses for the first year of operation; and

b. A balance sheet showing assets and liabilities.

4. Facilities operated by state or local government agencies, boards and commissions shall submit evidence of sufficient funds to operate including a working budget showing appropriated revenue and projected expenses for the coming year.

B. Renewal applications

A completed application for renewal of a facility's license or certificate shall be submitted within 30 days after being notified to submit a renewal application.

Interpretation of § 20: An application is complete when all questions are answered in the appropriate spaces, required documents are attached, and it is signed and dated by the individual legally responsible for the operation of the facility. If the facility is privately owned, this person will be the owner. If it is operated by an association or corporation, an officer of the board, preferably the chair, must sign the initial application. A director/administrator employed by the owner or the board to operate the facility may sign the renewal application, but not the initial application.

If the facility is to be operated by a governmental entity, the person employed to operate the facility may sign the application.

If, after reviewing the application, it is determined that it is incomplete, the lead regulatory authority shall notify the applicant of the additional material needed.

The date all information is received is the official date of application. This date is significant for facilities licensed/certified by the Department of Social Services since the statute permits the facility to begin operation if final action has not been taken on the application or the applicant has not been notified of such action within 60 days from the date the completed application is received.

22 VAC 42-10-25. The Investigation.

The regulatory authority or regulatory authorities will arrange and conduct an on-site inspection of the facility; a thorough review of the services; and investigate the character, reputation, status, and responsibility of the applicant.

22 VAC 42-10-30. Visitation of Facilities.

Representatives of the departments shall make announced and unannounced visits during the effective dates of the license/certificate. The purpose of these visits is to monitor compliance with applicable standards.

22 VAC 42-10-35. General Requirements.

A. The facility shall demonstrate full compliance with sufficient applicable standards to clearly demonstrate that its program and physical plant

can provide reasonable safe and adequate care while approved plans of action to correct findings of noncompliance are being implemented and there are no noncompliances which pose an immediate and direct danger to residents.

B. Corporations sponsoring residential facilities for children shall maintain their corporate status in accordance with Virginia law. Corporations not organized and empowered solely to operate residential facilities for children shall provide for such operations in their charters.

Interpretation of § 35.B: Corporations that are incorporated in Virginia must have a certificate of incorporation from the State Corporation Commission. Corporations that are incorporated in other states or countries must receive a certificate of authority which authorizes the corporation to conduct business in Virginia. A copy of this certificate of authority must be viewed for any corporation that in not incorporated in Virginia when the facility being licensed/certified is located in Virginia.

The articles of incorporation or the charter shall be reviewed to determine that the corporate papers provide for the operation of a residential facility for children.

Questions regarding regulations governing corporations should be directed to the State Corporation Commission.

C. The facility shall comply with the terms of its license or certificate.

D. A license or certificate is not transferable and automatically expires when there is a change of ownership or sponsorship.

Interpretation of § 35.D: When a change in ownership or sponsorship occurs, an initial application for licensure/certification must be submitted. See § 20.A for the requirements concerning initial applications.

E. The current license or certificate shall be posted at all times in a place conspicuous to the public.

F. A license or certificate shall not be issued to a facility when noncompliance poses an immediate danger to the resident's life, health or safety.

G. Intermediate sanctions authorized by statute may be imposed at the discretion of the regulatory authorities in addition to the sanctions specified in this chapter.

22 VAC 42-10-40. Licenses/Certificates.

A. The Board of Juvenile Justice shall issue a certificate to each facility regulated by the board, indicating the facility's certification status when the facility is in compliance with these interdepartmental standards, other applicable regulations issued by the board, and applicable statutes. The certificate shall be

effective for the period specified by the board unless it is revoked or surrendered sooner.

B. Facilities Regulated by DOE, DMHMRSAS, or DSS

1. A triennial license or certificate shall be issued when the facility (i) applies for renewal while holding an annual or triennial license or certificate and (ii) substantially meets or exceeds the requirements of the interdepartmental standards and other applicable regulations and statutes.

2. Annual Licenses/Certificates.

a. An annual license or certificate shall be issued when the facility:

(1) Applies for renewal while holding a conditional or provisional license or certificate and substantially meets or exceeds the requirements of the interdepartmental standards and other applicable regulations and statutes; or

(2) Applies for renewal while holding an annual or triennial license or certificate and one systemic deficiency has been identified during the licensure or certification period without the facility taking acceptable, documented corrective action;

b. An annual license or certificate may be issued to a facility whose sponsor requests establishment of a new facility to serve the same target population as that currently being served by the sponsor in facilities regulated through the Interdepartmental Regulatory Program.

Interpretation of § 40.B.2.b: The regulatory authority will exercise its discretion in determining whether to issue an annual or a conditional license/certificate.

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

3. Provisional Licenses/Certificates

a. A provisional license or certificate shall be issued when the facility:

(1) Applies for renewal while holding an annual or triennial license or certificate, and during the licensure or certification period there have been two or more occasions when systemic deficiencies have been identified without the facility taking acceptable, documented corrective action; or

(2) Applies for renewal while holding a conditional license or certificate and, during the licensure or certification period, has demonstrated that its programs and services do not substantially comply with the interdepartmental standards or other applicable regulations or statutes.

b. A provisional license or certificate may be renewed, but a provisional license or certificate and any renewals thereof shall not exceed a

period of six successive months for all provisional licenses and renewals combined.

c. A facility holding a provisional license or certificate shall demonstrate progress toward compliance.

4. Conditional Licenses/Certificates

a. A conditional license or certificate shall be issued to a facility which demonstrates an acceptable level of compliance and is:

(1) Beginning initial operation and whose sponsor is not operating one or more additional facilities regulated through the Interdepartmental Regulatory Program, or

(2) Sponsored by a currently established Interdepartmental Regulatory Program sponsor who is beginning operation, at a new or currently regulated site, of a program serving a different target population than that being served by the sponsor.

b. A facility holding a conditional license or certificate shall demonstrate progress toward compliance.

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

Interpretation of § 40.B.4: Compliance with all requirements is impossible to assess because facilities do not have residents and are not fully staffed or operational during the initial study. The issuance of a conditional license/certificate allows time for the applicant to demonstrate compliance with standards.

22 VAC 42-10-50. Application Fee.

There shall be no fee to the licensee for licensure or certification.

22 VAC 42-10-60. Modification.

A. The conditions of a license or certificate may be modified during the term of the license or certificate with respect to the capacity, residents' age range, facility location, or changes in the services.

B. The licensee shall submit a written report of any contemplated changes in operation which would affect the terms of the license or certificate or the continuing eligibility for licensure or certification.

C. A change shall not be implemented prior to approval by the regulatory authority. A determination will be made as to whether changes will be approved and the license or certificate modified accordingly or whether an application for a new license or certificate must be filed. The licensee will be notified in writing within 60 days following receipt of the request as to whether the modification is approved or a new license or certificate is required.

Interpretation of § 60: Data submitted by the licensee may be sufficient for the regulatory authority to determine whether to approve or deny the request. In some cases, a site visit will be necessary.

Licenses/certificates issued to facilities regulated by DSS may not be modified when there is a change in the location of a facility. By regulation, DSS requires submittal of an application for licensure/certification.

22 VAC 42-10-70. Denial.

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

1. Violates any provision of applicable laws or regulations made pursuant to such laws;

2. Has a founded disposition of child abuse or neglect after the appeal process has been completed;

3. Has been convicted of a crime listed in §§ 37.1-183.3 and 63.1-248.7:2 of the *Code of Virginia*;

4. Has made false statements on the application or misrepresentation of facts in the application process;

5. Has not demonstrated good character and reputation as determined through references, background investigations, driving records, and other application materials.

B. If denial of a license or certificate is recommended, the facility will be notified in writing of the deficiencies, the proposed action, the right to appeal, and the appeal process.

Interpretation of § 70.B: The appeal process will be provided by the regulatory authority.

22 VAC 42-10-80. Revocation.

A. The license or certificate may be revoked when the licensee:

1. Violates any provision of applicable laws or applicable regulations made pursuant to such laws;

2. Permits, aids or abets the commission of any illegal act in the regulated facility;

3. Engages in conduct or practices which are in violation of statutes related to abuse or neglect of children;

4. Deviates significantly from the program or services for which a license or certificate was issued without obtaining prior written approval from the regulatory authority or fails to correct such deviations within the specified time; or

5. Engages in a willful action or gross negligence which jeopardizes the care or protection of residents.

B. If revocation of a license or certificate is recommended, the facility will be notified in writing of the deficiencies, the proposed action, the right to appeal, and the appeal process.

Interpretation of § 80.B: The appeal process will be provided by the regulatory authority.

22 VAC 42-10-90. Variances.

A. Any request for a variance shall be submitted in writing to the regulatory authority.

B. A variance shall not be effected prior to approval of the regulatory authority.

Interpretation of § 90: Refer to 22 VAC 42-10-10 for a definition of variance.

A temporary variance is granted with the expectation that it will expire either on a specific date or when an anticipated change occurs.

A permanent variance is granted with the expectation that it will remain effective as long as the conditions which were the basis for granting the variance remain unchanged.

When it is necessary to issue a license/certificate while a variance request Is pending, noncompliance is cited in the corrective action plan with a notation recognizing that a variance has been requested.

Variances are conditioned upon there being no change in the circumstances which were the basis for the approval. They are subject to review. Any variance may be rescinded by the regulatory authority if conditions change, additional information becomes known, or the applicant/licensee fails to meet any conditions attached to the variance. Variances expire automatically when there is a change in the facility's location or ownership.

The denial of a request for a variance is not appealable unless the denial leads to the denial or revocation of the license/certificate.

22 VAC 42-10-95. Investigation of Complaints and Allegations.

The four departments of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Service; and Social Services are responsible for complete and prompt investigation of all complaints and allegations at the facilities where they have regulatory authority, and for notification of the appropriate persons or agencies when removal of residents may be necessary. Suspected criminal violations shall be reported to the appropriate law enforcement authority.

PART II ADMINISTRATION

22 VAC 42-10-100. Governing Body.

Intent of § 100: The purpose of these standards is to insure that there be a clearly identified group of people (or person or a partnership, when applicable) responsible for the operation of the facility. It is essential that this group of people assume the authority to make the decisions necessary to operate the facility effectively.

A. The facility shall clearly identify the corporation, association, partnership, individual, or public agency that is the licensee.

B. The licensee shall clearly identify any governing board, body, entity or person to whom it delegates the legal responsibilities and duties of the licensee.

Compliance Determination for § 100:

1. *Review the list of members of the governing board/body.*
2. *Talk with the administrator about the person or organization to whom he is responsible and the role of this person or organization. If necessary, review any supporting documentation.*
3. *If there is an executive committee or other entity or person which fulfills the responsibilities of the licensee, review the written delegation of authority.*

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

Intent of § 110: The licensee's primary responsibility is to manage the organization, by planning, providing direction, making policy, providing resources, delegating responsibilities, coordinating efforts, evaluating results, and forecasting the future role and direction of the organization.

The licensee is ultimately responsible for the operation and management of the facility, even though it may delegate the responsibilities for managing the day-to-day operations to a chief administrative officer. It is the responsibility of the licensee, therefore, to oversee the work of the chief administrative officer who implements the policies set forth by the board.

A. The licensee shall appoint a qualified chief administrative officer to whom it delegates in writing the authority and responsibility for administrative direction of the facility.

B. A qualified staff member shall be designated to assume responsibility for operation of the facility in the absence of the chief administrative officer.

C. The licensee shall develop a written statement of the philosophy and the objectives of the facility including a description of the target population and the program to be offered.

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

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

Compliance Determination for § 110:

1. Review the written document that delegates authority and responsibility to the administrator.

2. Talk with the administrator about how he was appointed by the licensee.

3. Review the written job description of the chief administrative officer.

4. Review the facility's written statement of philosophy and objectives for inclusion of:

a. a description of the population to be served, and

b a description of the programs and services to be provided.

5. Review documentation and interview administrative staff to confirm that the licensee meets the requirements in subsections D and E.

22 VAC 42-10-120. Fiscal Accountability.

A. Facilities operated by corporations, unincorporated organizations or associations, individuals or partnerships shall prepare, at the end of each fiscal year:

1. An operating statement showing revenue and expenses for the fiscal year just ended;

2. A working budget showing projected revenue and expenses for the next fiscal year that gives evidence that there are sufficient funds to operate; and

3. A balance sheet showing assets and liabilities for the fiscal year just ended.

B. There shall be a system of financial record keeping that shows a separation of the facility's accounts from all other records.

Interpretation of § 130: Each facility must have financial records separate from any other financial records of an owner (sponsor), larger corporation, or other facilities operated by the same owner.

22 VAC 42-10-130. Insurance.

A. The facility shall maintain liability insurance covering the premises and the facility's operations.

B. The facility shall maintain liability insurance on vehicles operated by the facility.

Compliance Determination for § 130:
View evidence of insurance policy(ies) or statement(s) from the insurance company or agent for coverage of facility's premises, operations and vehicles. Note the effective dates of coverage.

C. The members of the governing body and staff who have been authorized to handle the facility's funds shall be bonded or otherwise indemnified.

Compliance Determination for § 130.C:
Determine if and how those authorized to handle facility funds are bonded and view evidence of coverage.

22 VAC 42-10-140. Fund-Raising.

The facility shall not use residents in its fund-raising activities without written permission of the legal guardian and the permission of residents 14 years or older.

Interpretation of § 140: If residents participate in fund-raising activities, obtaining permission is one means of ensuring that their privacy is protected, that measures are taken to safeguard confidential information about the residents' problems and needs and that the appropriateness of the activity is assessed.

Compliance Determination for § 140:
1. Determine if residents are involved in fund raising activities; and

2. If residents do participate in fund raising activities, review the written permission of the legal guardian and the written permission of residents 14 years or older.

22 VAC 42-10-150. Weapons.

The facility shall have and implement a written policy governing the possession and use of firearms, pellet guns, air rifles, and other weapons on the facility's premises. The policy shall provide that no firearms, pellet guns, air rifles, or other weapons shall be permitted on the premises unless the weapons are:

1. In the possession of licensed security personnel,
2. Kept securely under lock and key, or
3. Used under the supervision of a responsible adult in accord with policies and procedures developed by the facility for the weapons' lawful and safe use.

Interpretation of § 150: To assess compliance, firearms are weapons from which shot is discharged by gunpowder. Except for officers or Federal, State or local employees while engaged in the performance of official duties, anyone who provides security services and carries a firearm at a facility must be: 1) licensed by the State (Department of Criminal Justice Services) as a security services business; or 2) registered by the State (Department of Criminal Justice Services) as a guard authorized to carry firearms.

The term responsible adult implies that the facility has reasonable grounds to believe that the individual has sufficient knowledge, judgement and maturity commensurate to the demands of the situation for which he is assuming authority and responsibility.

Compliance Determination for § 150:

1. Confirm that the facility has written policy governing the possession and use of fire arms, pellet guns, air rifles and other weapons on the premises of the facility and that it provides for the conditions cited in the standard.

2. Note the presence of any firearms and ask the administrator if there are any firearms on the premises of the facility including staff quarters.

3. If any firearms are present on the premises of the facility, check to see that they are either securely under lock and key or in the possession of licensed security personnel. If any security personnel possess firearms, ask to see proof that these persons are registered as security personnel authorized to carry firearms.

4. Ask the administrator if children are permitted to use firearms and under what circumstances.

22 VAC 42-10-160. Relationship to Regulatory Authority.

A. The facility shall submit or make available to the regulatory authority such reports and information as the regulatory authority may require to establish compliance with these interdepartmental standards and other applicable regulations and statutes.

Interpretation of § 160.A: Information, including written documentation, may be requested by the regulatory authority when the information is deemed necessary to determine compliance.

B. The governing body or its official representative shall notify the regulatory authorities within five working days of:
1. Any change in administrative structure or newly hired chief administrative officer; and

2. Any pending changes in the program including, but not necessarily limited to: the setting where services are performed, the services provided, staff qualifications, organizational structure, target population, or capacity.

Interpretation of § 160.B.2 Some of these changes may require a modification to the facility's license. See § 60.

22 VAC 42-10-170. Facilities Serving Persons Over the Age of 17 Years.

Intent of § 170: This section applies to all facilities and is intended to assure that same levels of program services are provided to all persons residing in residential facilities regardless of the residents' ages. Facilities must receive approval from their regulatory authority to accept and maintain residents 18 through 21 years of age. Residents 18 years of age and older must be counted in the licensed capacity.

Facilities which are approved to serve persons over the age of 17 years shall comply with these interdepartmental standards for all occupants regardless of age, except when it is determined by the regulatory authorities that housing programs, services, and supervision for such persons are provided separately from those for the residents.

Interpretation of § 170: Blanket approval may be granted and stipulated on the face of the license for facilities to accept and maintain residents 18 through 21 if the residents are placed by a local department of social services, are court ordered or are referred by a Family Assessment and Planning Team. In the case of direct parental placement with no public agency involvement, individual approval must be received prior to accepting residents 18 and over. Residential facilities for children are not permitted to take residents 22 years of age and older without an appropriate license to provide care and services to adults.

22 VAC 42-10-180. Health Information.

A. Health information required by this section shall be maintained for each staff member and for each individual who resides in a building occupied by residents including each person who is not a staff member or resident of the facility.

Compliance Determination for § 180.A:
Review documentation to confirm presence of health information required by standards.

B. Initial Screening for Tuberculosis

1. Each individual shall obtain an evaluation documenting the absence of tuberculosis in a communicable form no earlier than 30 days before or no later than seven days after employment or contact with residents.

Interpretation § 180.B.1: Date of employment is defined as the actual date of reporting to work.

2. Each individual shall annually submit the results of a Mantoux tuberculin skin test, chest x-ray or bacteriological examination, as deemed appropriate by the examining physician, documenting that the individual is free of tuberculosis in a communicable form.

Interpretation § 180.B.2: A Mantoux tuberculin skin test is the preferred method of testing for TB infection. The test is done by using a needle and syringe to inject 0.1 ml of 5 tuberculin units of liquid tuberculin between the layers of skin, usually on the forearm. The reaction to this test, usually a small swollen area (induration) is measured 48 to 72 hours after the injection and is classified as positive or negative depending on the size of the reaction and the patient's risk factors for TB. Tine tests, although easy to give and convenient, are not accurate and should not be used to determine whether a person has TB infection.

A contraindication to testing from a physician is to be honored. An example might be, but is not limited to, a physician's statement that the patient is pregnant and cannot have an x-ray.

It is expected that the majority of staff tested will not react significantly to the Mantoux tuberculin skin test and will need to be retested annually. Those staff who do significantly react to the Mantoux tuberculin skin test do not need to be retested annually as once an individual reacts significantly to the skin test, they will always react significantly.

3. The documentation shall include all information contained on a "Report of Tuberculosis Screening" form recommended by the Virginia Department of Health.

Interpretation § 180.B.3: A copy of the "Report of Tuberculosis Screening Evaluation" can be found in Appendix A.

4. An evaluation shall not be required for an individual who (i) has separated from employment with a facility licensed or certified by the Commonwealth of Virginia, (ii) has a break in service of six months or less, and (iii) submits the original statement of tuberculosis screening to his new employer.

Interpretation of § 180.B.4: The Virginia Department of Health has advised that another TB screening is normally not necessary when an individual changes employment from one licensed/certified facility to another. Therefore, an individual's original screening statement indicating an absence of tuberculosis in a communicable form will be acceptable, if it meets the requirements of B.2 and B.3, and the individual was previously employed in a licensed/certified facility and the break in service is six months or less.

Compliance Determination for § 180.B:

1. Review medical records of personnel.

2. Verify that the tuberculosis reports/statements contain the information found on the "Report of Tuberculosis Screening Evaluation" form.

C. Subsequent Evaluations for Tuberculosis

1. An individual who comes in contact with a known case of infectious tuberculosis shall be screened as determined appropriate based on consultation with the local health department.

2. An individual who develops chronic respiratory symptoms of three weeks duration shall be evaluated immediately for the presence of infectious tuberculosis.

Interpretation § 180.C: If an individual comes into contact with a known case of tuberculosis or develops chronic respiratory symptoms, it is necessary that the individual receive an additional evaluation. In this instance it is not sufficient for the individual to provide documentation of previous test results certifying the absence of tuberculosis in a communicable form.

Chronic respiratory symptoms would include coughing and breathing problems of three weeks duration.

Completion of the required exam is to occur within 30 days after exposure to a known case of tuberculosis or within 30 days after the time respiratory symptoms are recognized as being chronic (30 days after approximately three weeks of symptoms).

D. An individual suspected of having infectious tuberculosis shall not be permitted to return to work or have contact with staff or residents until a physician has determined that the individual is free of infectious tuberculosis.

E. The facility shall report any active case of tuberculosis developed by a staff member to the local health department.

Compliance Determination for § 180.C.D.E:

1. *Ask whether there have been staff who presented "chronic respiratory symptoms" (coughing, breathing problems, etc.) lasting three weeks or longer and, if so, whether they received an evaluation.*

2. *Ask if there have been staff who came in contact with a known case of tuberculosis, and if so, whether they received an evaluation.*
   If there have been staff suspected of having infectious tuberculosis ask if the staff were permitted to return to work or have contact with staff or residents before a physician determined the individuals were free of infectious tuberculosis.

   If the facility has staff who developed an active case of tuberculosis was the local health department contacted.

3. *Review staff medical records.*

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

A. The licensee or the regulatory authority may require a report of examination by a licensed physician or mental health professional when there are indications that an individual's physical, mental or emotional health may jeopardize the care of residents.

B. An individual who is determined by a licensed physician or mental health professional, to show an indication of a physical or mental condition which may jeopardize the safety of residents or which would prevent the performance of duties shall be removed immediately from contact with residents and food served to residents until the condition is cleared as evidenced by a signed statement from the physician or mental health professional.

Interpretation of § 190: This section provides a method for dealing with an employee's fitness for duty. Concern may focus on the staff member's mental or physical fitness for duty whenever he has experienced an illness, injury, or contagious disease that may reasonably be expected to expose residents or other staff to harm, including the risk of diminished ability to perform assigned duties.

The facility should ask the examining professional for a specific clearance for any employee to resume his duties whenever there is a question about the employee's state of fitness to care for residents.

Administrators are in the best position to observe the physical and mental health of staff. Thus, invoking the standards by administrators is more probable except in situations such as those where:

- *the reviewer feels the administrator should have taken action but did not; or*
- *the administrator is the subject of the concern.*

Through interviews with facility personnel and residents and the regulator's own observations, the regulator may determine that there is a need to request an evaluation by a physician or mental health professional.

If the regulatory authority requests an examination, the regulator shall confirm the request in writing enumerating the reasons for the request.

An individual whose physical or mental condition may jeopardize program participants may be assigned other duties within the facility.

Compliance Determination for § 190:

1. *Ask the director or his designee whether any reports of examination have been requested. Review the report(s) of examination for any individual(s) identified. If examination results indicate conditions which might jeopardize program participants, ask the administrator what action was taken. Verify the duties and work assignment(s) of any individual restricted from contact with residents and food served to residents. If the individual has resumed regularly assigned duties, verify the presence of a signed physician's or mental health professional's report certifying clearance.*

2. *Review staff records to note any relevant injuries or illnesses and, when reasonably appropriate, whether a clearance has been sought and obtained in a timely manner. Indications of prolonged absence by a staff member should prompt an inquiry, if the record does not clarify the circumstances of the absence and return. Serious or repeated disciplinary infractions in an employee's record might also prompt an inquiry if fitness for duty might be questioned based on the nature of these infractions.*

3. *Talk with the administrator or supervisory personnel to clarify that they understand this obligation and, when appropriate, exercise the responsibility to secure a clearance.*

4. *Unusual circumstances might come to the team's attention while conducting an on-site review. These should be clarified with the administrator if the team has a reasonable question about the physical or mental fitness of a particular staff member. Should this occur, the team should note the apparent disability or infirmity, inquire of the administrator whether this perception is shared, and ask whether a clearance has been sought or planned.*

22 VAC 42-10-200. Qualifications.

A. Standards establishing minimum position qualifications shall be applicable to all facilities. In lieu of the minimum position qualifications contained in this chapter, facilities subject to (i) the rules and regulations of the Virginia Department of Personnel and Training, or (ii) the rules and regulations of a local government personnel office may develop written minimum entry level qualifications in accord with the rules and regulations of the supervising personnel authority.

Interpretation of § 200: Some government personnel authorities have dictated that minimum entry level qualifications be stated in terms of the minimum knowledge, skills and abilities (KSA's).

The following definitions of KSA's may be helpful:

Knowledge: Organized body of information of a factual or procedural nature. Knowledge may be either "knowledge about something" or "knowledge of how to do something." Examples: knowledge of personnel administration; knowledge of accounting techniques.

Skill: Current observable competence to perform a manual activity involving equipment. Example: skill in typing, using an electric typewriter.

Ability: Current power to perform a physical or mental function. Examples: ability to hear; ability to add, subtract, multiply, and divide; ability to analyze data.

B. A person who assumes or is designated to assume the responsibilities of a position or any combination of positions described in these standards shall:

1. Meet the qualifications of the position or positions;

2. Fully comply with all applicable standards for each function; and

3. Demonstrate a working knowledge of the policies and procedures that are applicable to his specific position or positions.

C. When services or consultation are obtained on a contractual basis they shall be provided by professionally qualified personnel.

Compliance Determination for § 200:

1. Compare, regardless of actual job titles, the duties and qualifications of all persons who assume the responsibilities of a position or any combination of positions to assure compliance with §§ 260, 270, and 280.

2. Determine, when services are provided by contract, that the personnel providing the services are professionally qualified to provide the services. For example, a contractor who serves as the program director must meet the program director's qualification requirements. A contractor who provides medical, nursing or psychological services must meet the appropriate licensure requirements imposed by state law.

3. When any staff member is designated to fulfill more than one job function, the regulator must make a judgment as to whether the person (1) meets the qualifications of each of the assigned job functions, and (2) can reasonably be expected to perform all of those assignments adequately.

4. Whenever the regulator has reservations about whether multiple job functions are being performed adequately, the regulator should proceed to interview staff, children, and administrators concerning such matters as the proportion and actual time spent on each function assigned, the quality indicators for performance in each functional area, back-up methods available during peak overload periods, rationale for the multiple assignments, etc.

22 VAC 42-10-210. Job Descriptions.

A. There shall be a written job description for each position which, at a minimum, includes the:

1. Job title;
2. Duties and responsibilities of the incumbent;
3. Job title of the immediate supervisor; and
4. Minimum knowledge, skills and abilities required for entry level performance of the job.

B. A copy of the job description shall be given to each person assigned to a position at the time of employment or assignment.

Compliance Determination for § 210:

1. Review written job descriptions and determine that each includes the required elements.

2. Interview staff to determine if they received a copy of the job description at the time of employment or assignment to the position.

22 VAC 42-10-220. Written Personnel Policies and Procedures.

A. The licensee shall approve written personnel policies and make its written personnel policies readily accessible to each staff member.

B. The facility shall develop and implement written policies and procedures to assure that persons employed in or designated to assume the responsibilities of each position possess the knowledge, skills and abilities specified in the job description for the position.

Compliance Determination for § 220:

1. Confirm that the facility has written personnel policies including those pertaining to child abuse and neglect.

2. Review the facility's employee selection policies and procedures and determine that they give assurance that persons employed will possess the knowledge, skills and abilities specified in the job descriptions.

3. Review the specifications of knowledge, skills and abilities as outlined in the job descriptions and review individual personnel records to assess whether employees meet the minimum requirements.

4. Confirm that the facility has written procedures related to abuse and neglect of children which include:

a. Acceptable methods of managing resident behavior,

b. Procedures for handling accusations against staff, and

c. Procedures for reporting suspected cases of abuse and neglect to local departments of social services.

5. Interview some staff to determine:

a. If they are familiar with the personnel policies, have a copy, or know where to obtain them, and

b. If they are familiar with the policies and procedures related to acceptable and unacceptable methods for managing resident behavior and with requirements and procedures for reporting suspected abuse/neglect.

6. Interview selected staff, including staff in each type of position. Assess whether each, including all shifts and regular relief, has a working knowledge of his job-relevant policies and procedures including those pertaining to management of resident behavior and reporting suspected child abuse and neglect. "Working knowledge" means a general grasp of requirements, not that the employee can "recite" the policy or even necessarily relate the required action to the policy manual material

22 VAC 42-10-230. Personnel Records.

Intent of § 230: This information is critical for the preliminary evaluation and screening of potential employees. It is an essential tool in planning the employee's orientation and ongoing training and is an important tool in evaluating the employee's performance.

Written references or notations of oral references are to assess an individual's performance in his previous employment for evidence of his fitness to care for children. Since past job performance is one of the better predictors of future job performance, careful interviewing of past employers may produce invaluable information to aid in making final selection decisions.

Criminal background checks and checks for information regarding child abuse and neglect from the Department of Social Services' Central Registry are also valuable screening tools. Facilities should carefully assess the information they obtain from these checks but must remember these records are not infallible.

A. Separate up-to-date written or automated personnel records shall be maintained for each employee and for each volunteer and contractual service provider for whom background investigations are required by Virginia statute. Content of personnel records of volunteers and contractual service providers may be limited to documentation of compliance with requirements of Virginia laws regarding child protective services and criminal history background investigations.

B. The records of each employee shall include:

1. A completed employment application form or other written material providing the individual's name, address, phone number, and social security number;

2. Educational background and employment history;

3. Written references or notations of oral references;

4. Reports of required health examinations;

5. Annual performance evaluations;

6. Date of employment and separation; and

7. Documentation of compliance with requirements of Virginia laws regarding child protective services and criminal history background investigations.

Compliance Determination for § 230:

1. Review a selected sample of personnel files and verify that each employee, volunteer, and contractual service provider has a separate personnel record and that each required item is present in each record.

2. Note that dates of such items as medical reports, performance evaluations, etc., conform to requirements.

C. Personnel records shall be retained in their entirety for three years after separation from employment, contractual service, or volunteer service.

22 VAC 42-10-240. Staff Development.

Intent of § 240: Orientation is necessary to provide all staff, volunteers and students with a working knowledge of the facility, policies, staff duties and responsibilities, and general philosophy of the facility.

Through orientation, the individual should become knowledgeable of the goals of the facility and should acquire knowledge of expectations to protect, educate, and safeguard the residents. An additional objective of orientation is to help new workers feel at ease and begin to gain confidence in themselves and in the new organization.

A. New employees, relief staff, volunteers and students/interns shall within one calendar month of employment be given orientation and training regarding the objectives and philosophy of the facility, practices of

confidentiality, other policies and procedures that are applicable to their positions, and their duties and responsibilities.

Interpretation of § 240.A: Ideally, orientation should be provided to staff prior to assuming job responsibilities; however, this standard permits such training to be completed within one calendar month after starting job responsibilities. All staff must receive orientation on the items stated here and to the items required by other standards (related to reporting suspected child abuse and neglect, assuring that medical/dental/emergency needs of residents are met, and evacuation drill procedures).

B. The facility shall develop a staff training plan that addresses the knowledge, skills, and abilities that employees need to perform their job.

C. Regular supervision of staff shall not be the only method of staff development.

D. All personnel shall receive documented training and other staff development activities as necessary to enable them to adequately perform their job responsibilities.

Interpretation of § 240: The requirements for providing and documenting staff development activities apply to all facility personnel. Staff development activities should be related to the employee's responsibilities.

The care of children requires considerable knowledge and skill. In addition to initial orientation, staff need to have their skills and knowledge reinforced and expanded so that they can maintain a high level of quality in the care of the residents. Staff also must be prepared to assume additional responsibilities when required to do so. Staff training includes work-site lectures, demonstrations, seminars, etc., as well as off-site activities such as college courses and professional meetings.

Staff training plans should be developed for each individual and should be relevant to the individual's duties and responsibilities. It is suggested that the individual staff training plan be developed within one calendar month of employment and reviewed and updated at least annually. Facilities may wish to incorporate this review as part of the annual performance evaluation.

Compliance Determination for § 240:

1. *Review training records of staff hired since the last compliance study, including volunteers and students to confirm that they have received the required orientation.*

2. *Review the training schedule/calendar, staff training plans and training records for staff, volunteers and students to verify participation in staff development activities since the last compliance review.*

3. *Interview a sample of staff to verify that the reported training and training content were implemented as planned.*

22 VAC 42-10-250. Supervision.

Regular supervision of staff, volunteers, and students/interns shall be provided.

Interpretation of § 250: Supervision includes oversight responsibilities of the supervisor such as scheduling, directing, monitoring and evaluating the individuals' work activities. It also includes individual development activities such as counseling, mentoring, consulting, instructing and demonstrating job related functions. Regular supervisory contact with individuals is essential in the establishment and maintenance of adequate job performance.

Compliance Determination for § 250:
Review with the administrator and staff, volunteers, and student interns to confirm the scheduling and provision of regular supervision.

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

A chief administrative officer appointed after July 1, 2000 shall have at least:

1. A baccalaureate degree from an accredited college or university in the field of human services, institutional management, social work, education or other allied discipline; or

2. A baccalaureate degree from an accredited college or university with two years of successful work experience with children in the field of institutional management, social work, education or other allied profession.

Interpretation of § 260: The Chief Administrative Officer may also be known by other titles such as executive director or director.

22 VAC 42-10-270. Program Direction.

A. The facility's program shall be directed by one or more qualified persons.

B. Persons directing programs shall be responsible for the development and implementation of the programs and services offered by the facility.

C. Persons directing programs of a facility licensed or certified to care for 13 or more residents shall be full-time, qualified staff members.

D. A person appointed after July 1, 1981, to direct programs shall have:

1. A baccalaureate degree from an accredited college or university with two years of successful work experience with children in the field of institutional management, social work, education or other allied discipline;

2. A graduate degree from an accredited college or university in a profession related to child care and development; or

3. A license or certificate issued by the Commonwealth of Virginia as a drug or alcoholism counselor/worker if the facility's purpose is to treat drug abuse or alcoholism.

Compliance Determination for § 270:

1. Confirm that the facility has a qualified program director; check personnel records, staffing schedule and description.

2. If the incumbent program director was appointed after July 1, 1981, review the incumbent's personnel file to assess whether he meets the above qualifications or, if appropriate, the KSA's listed in the job description.

3. Review job descriptions to verify that the program director is charged with responsibility for programs and services.

4. If the facility is licensed/certified to care for 13 or more residents, determine whether there is at least one full-time, qualified staff member fulfilling the duties of program director.

22 VAC 42-10-280. Child Care Staff.

A. A designated staff member shall have responsibility for the development of the daily living program within each child care unit.

B. A designated staff member shall be responsible for the coordination of all services offered to each resident.

C. A designated staff member shall have responsibility for the orientation, training and supervision of child care workers.

D. An individual supervising child care workers shall have:

1. A baccalaureate degree from an accredited college or university and two years experience in the human services field, at least one of which shall have been in a residential facility for children; or

2. A high school diploma or a General Education Development Certificate (G.E.D.) and a minimum of five years experience in the human service field with at least two years in a residential facility for children.

E. The child care worker shall have direct responsibility for guidance and supervision of the children to whom he is assigned including:

1. Overseeing physical care;
2. Development of acceptable habits and attitudes;
3. Management of resident behavior; and
4. Helping to meet the goals and objectives of any required service plan.

F. A child care worker shall:

1. Be a high school graduate or have a General Education Development Certificate (G.E.D.); and
2. Have demonstrated, through previous life and work experiences, an ability to maintain a stable environment and to provide guidance to children in the age range for which the child care worker will be responsible.

G. An individual hired, promoted, demoted, or transferred to a child care worker's position after July 1, 2000 shall be at least 18 years older.

Compliance Determination for § 280:

1. *Verify that each unit has a staff member assigned responsibility for the daily living program by reviewing job descriptions and staff assignment schedules and interviewing selected unit staff.*

2. *Verify that each resident has a designated staff member assigned to coordinate services by reviewing a sample of residents' records, interviewing staff, and reviewing job descriptions.*

3. *Verify from job descriptions and staff records that a designated staff member is assigned responsibility for orientation, training and supervision of child care staff and from individual employment records that the individual meets the minimum qualifications for the position.*

4. *Observe and interview to confirm that the child care staff assume the role described.*

5. *Interview staff to verify that child care staff participate in the implementation of required service plans.*

6. *Review personnel records of child care staff to determine that they meet the age requirement. Verify that they meet the educational requirements and judge whether the facility has explored and considered the previous life and work experience of child care staff before appointing them. Or, if appropriate, assess whether they meet the KSA's listed in the job description.*

22 VAC 42-10-290. Relief Staff.

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

Interpretation of § 290: "Qualified" relief staff are those individuals who meet the minimum job qualifications and personal health requirements of the job for which they provide relief. Relief staff must be provided with appropriate orientation, staff development, and supervision. Each relief staff member must be equipped with the skills and knowledge, including a knowledge of relevant facility policies and procedures, to enable him to maintain compliance with all standards that apply to the job he performs.

Compliance Determination for § 290:

1. *Review job descriptions, individual personnel records, training schedules and work schedules to determine whether relief staff are properly qualified and oriented to job duties.*

2. *Interview staff and supervisors or read the daily logs or other records of the facility to establish whether relief staff are readily available to cover scheduled and unscheduled staff absences.*

22 VAC 42-10-300. Medical Staff.

A. Services of a licensed physician shall be available for treatment of residents as needed.

B. Each nurse shall hold a current nursing license issued by the Commonwealth of Virginia.

Compliance Determination for § 300. A and B:

1. *Determine whether the facility has arrangements with a licensed physician(s) for the provision of treatment.*

2. *Review licenses to determine whether staff employed in nursing positions are currently licensed by the Commonwealth of Virginia as nurses.*

C. At all times that children are present there shall be at least one responsible adult on the premises who has received within the past three years a basic certificate in standard first aid issued by the American Red Cross or other recognized authority for each 16 children or portion thereof on the premises. Each nurse on the premises who holds a current nursing license issued by the Commonwealth of Virginia may be considered to hold a current certificate in first aid.

D. At all times that children are present there shall be at least one responsible adult on the premises who has a current certificate in cardiopulmonary resuscitation issued by the American Red Cross or other recognized authority for each 16 children or portion thereof on the premises.

Interpretation of § 300.C and D: The American Red Cross is considered the foremost authority on first aid and CPR training. However, these standards allow for evidence of certification in First Aid or CPR from other recognized authorities.

Compliance Determination for § 300 C. and D.:
Confirm from the roster of staff on duty and the personnel records that at all times there is at least one responsible adult certified in first aid and cardiopulmonary resuscitation for every 16 children or portion thereof on the premises.

22 VAC 42-10-310. Volunteers and Students/Interns.

A. A facility that uses volunteers or students/interns shall develop and implement written policies and procedures governing their selection and use.

B. The facility shall not be dependent upon use of volunteers or students/interns to provide basic services.

Interpretation of § 310.B: Volunteers may provide supplemental services to residents. Individual situations should be discussed with the facility's regulator, if there are questions.

C. Responsibilities of volunteers and students/interns shall be clearly defined in writing.

D. Volunteers and students/interns shall have qualifications appropriate to the services they render.

E. Volunteers and students/interns shall comply with all regulations governing confidential treatment of personal information.

F. Volunteers and students/interns shall be informed of liability protection, if any, provided by the facility.

Compliance Determination for § 310:

1. *Review written policies concerning the selection and use of volunteers or students receiving training.*

2. *Review job descriptions or work schedules to determine that volunteer and student responsibilities have been defined.*

3. *Review the selection criteria and "job descriptions," if any, developed for volunteers and students.*

4. Review the information available on volunteers (e.g. some facilities may use a regular employment application form while others may develop a separate instrument to determine whether the facility has appropriate information on which to base assignments and whether that information is used appropriately in assigning volunteers and students.

5. Review the orientation procedures to determine whether volunteers and students are advised of liability and protection issues and confidentiality requirements; verify that the latter practices are also appropriately supervised by regular staff.

22 VAC 42-10-320. Support Functions.

A. Child care workers and other staff responsible for child care may assume the duties of non-child care personnel only when these duties do not interfere with their child care responsibilities.

Compliance Determination for § 320.A:
Interview staff and review staffing patterns to determine if any support services assignments to child care or other staff interfere with their primary duties in child care, etc.

B. Residents shall not be solely responsible for support functions, including but not necessarily limited to, food service, maintenance of building and grounds, and housekeeping.

Intent of § 320.B: The intent of this standard is to assure that residents are not exploited and are not assigned duties beyond their physical or mental capacity to perform.

Compliance Determination for § 320.B:
Review staffing patterns, observe, and interview to determine whether residents are ever solely responsible for service functions.

PART III RESIDENTIAL ENVIRONMENT

Intent: Residential environment standards are intended to safeguard the health of the children; assure the safety and comfort of their physical environment; provide for personal privacy; and assure the children of appropriate and necessary equipment, supplies and facilities to meet personal, recreational and educational needs. Many children placed away from home have experienced disruptions in their environment and pattern of living. These standards attempt to minimize the disruptions by normalizing the children's physical environment and activities as much as possible.

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

A. All buildings and building related equipment shall be inspected and approved by the local building official. Approval shall be documented by a certificate of occupancy indicating that the building is classified for its proposed use.

B. The facility shall document at the time of its original application and annually thereafter that buildings and equipment are maintained in accordance with the Virginia Statewide Fire Prevention Code (13 VAC 5-51-10 et. seq.).

C. At the time of the original application and at least annually thereafter the buildings shall be inspected and approved by state or local health authorities, whose inspection and approval shall include:

1. **General sanitation;**
2. **The sewage disposal system;**
3. **The water supply;**
4. **Food service operations; and**
5. **Swimming pools.**

Interpretation of § 330: Facilities are expected to maintain compliance with the Virginia Statewide Fire Prevention Code and sanitation regulations and to correct any deficiencies noted in these areas. When violations are cited, fire and health authorities are responsible for determining that deficiencies are corrected. These regulatory authorities retain enforcement responsibility within the parameters of local and state fire and sanitation regulations. Whenever regulatory personnel observe conditions which are believed to be potentially hazardous, the sanitarian or the fire inspector should be contacted to request an additional inspection.

Facilities are responsible for obtaining fire and sanitation inspections annually and for submitting copies of the inspectors reports to the lead regulatory authority.

Compliance Determination for § 330:
Reports from annual fire safety and sanitation inspections verify whether there is compliance or noncompliance. If noncompliance exists, the facility may be required to submit an acceptable corrective action plan prior to issuance of a license/certificate. Compliance determination methodologies for each subsection are described below.

Fire Safety Inspections are conducted by the Office of the State Fire Marshal and by local fire officials. The local fire official conducts inspections in localities where the local governing body has adopted the Virginia Statewide Fire Prevention Code. The Office of the State Fire Marshal conducts inspections in localities where the local governing body has not adopted the Virginia Statewide Fire Prevention Code and in all state owned and operated facilities.

Sanitation inspections are conducted by local health department sanitarians and by sanitarians employed by the Department of Juvenile Justice (DJJ). DJJ sanitarians conduct inspections in facilities owned AND operated by DJJ. Local health department sanitarians conduct inspections in all other facilities. In addition to initial and annual inspections, a sanitation inspection is required prior to operation of a food service area which is constructed, remodeled, or renovate

Compliance Determination for § 330:

§ 330.B – Fire Inspections

Compliance is based on completion, by the appropriate fire official, of a report of fire inspection, AND whether a reinspection is planned by the fire official.

Determine whether the facility has obtained annual inspections and submitted copies of the inspection reports.

Compliance is present if the current inspection report confirms that there are no known fire safety hazards which would prevent the facility from being licensed/certified as a children's residential facility, AND no reinspection is planned by the fire inspector, even when violations were cited. If violations were cited by the fire inspector and a reinspection has occurred, compliance determination is based upon the reinspection report.

Noncompliance is present if the facility has not submitted reports from annual inspections. Noncompliance also exists if the current inspection report shows violations, a reinspection is planned by the fire inspector, and no confirmation has been provided to the regulatory authority that violations have been corrected.

§330.C - Sanitation Inspections

Compliance is based on completion, by the appropriate sanitarian, of the "Report of Sanitation Inspection" (Interdepartmental form #Ø32-Ø5-555), or its equivalent; whether the areas enumerated in the "Report of Sanitation Inspection" are approved by the health department, AND whether a reinspection is planned by the sanitarian.

Determine whether the facility has obtained annual inspections and submitted copies of the inspection reports.

Compliance is present if the current inspection report confirms that all applicable areas are approved, AND no reinspection is planned by the sanitarian, even when violations are cited. If violations were cited by the sanitarian and a reinspection has occurred, compliance determination is based upon the reinspection report. "Swimming pools" is the only area which may not be applicable.

Noncompliance is present if the facility has not submitted reports from annual inspections. Noncompliance also exists if the current inspection report shows one or more areas are not approved, a reinspection is planned by the sanitarian, and no confirmation has been provided to the regulatory authority that violations have been corrected.

D. The buildings shall provide adequate space and shall be of a design that is suitable to house the programs and services provided.

Compliance Determination for § 330.D:

1. *Observe the buildings, their arrangement on the grounds, the arrangement of rooms within the buildings, and the manner in which the structures are utilized in relation to the programs and services provided.*

2. *Evaluate the buildings in relation to the characteristics and special needs of the population.*

E. Building plans and specifications for new construction, change in use of existing buildings, and any structural modifications or additions to existing buildings shall be submitted to and approved by the licensure or certification authority and by other appropriate regulatory authorities.

Interpretation of § 330.E: Other appropriate regulatory authorities may include local building officials, local fire departments, local or State health departments; and the Office of the State Fire Marshall.

Compliance Determination for § 330.E:
If construction or alterations to existing property are proposed or in progress, review reports or determine whether the administrator has requested approval.

22 VAC 42-10-335. Heating Systems, Ventilation and Cooling Systems.

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

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

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

22 VAC 42-10-340. Lighting.

A. Artificial lighting shall be by electricity.

B. All areas within buildings shall be lighted for safety.

Compliance Determination for § 340:

1. *Note the placement of light fixtures to determine if all areas are safely lighted.*

2. *Determine whether the fixtures are working properly and whether light bulbs are burned out.*

C. Lighting in halls and bathrooms shall be adequate and shall be continuous at night.

Intent of § 340.C: The intent of this requirement is to provide lighted paths for residents to walk without harm at night.

Interpretation of § 340.C: Continuous lighting may be provided in several ways. It may be night lights, lamps or fixtures in the halls or, in some instances, light from an adjoining indoor area or room may be deemed to meet the requirement provided it burns continuously.

D. Lighting shall be sufficient for the activities being performed.

Interpretation of § 340.D: These standards do not require the measurement of light in foot candles; therefore, specific measurements by a light meter cannot be required.

E. Operable flashlights or battery powered lanterns shall be available for each staff member on the premises between dusk and dawn to use in emergencies.

Interpretation of § 340.E: Other types of lighting, such as propane or kerosene lamps or reserve lighting, are not acceptable.

Compliance Determination for § 340.E:

1. *Count the number of flashlights or battery lanterns and compare the total number with the maximum number of staff on duty between dusk and dawn.*

2. *Determine where and how the flashlights or lanterns are stored to determine if they are easily accessible to staff in the event of an emergency.*

3. *Switch on several of the flashlights or lanterns to determine if they are in good working condition.*

F. Outside entrances and parking areas shall be lighted for protection against injuries and intruders.

Compliance Determination for § 340.F:

1. *Determine whether there are light fixtures for outside entrances and parking areas and switch on several of the lights to determine if they work properly.*

2. Evaluate the adequacy of the lighting to insure that the number and location of the lights is adequate for protection.

22 VAC 42-10-350. Plumbing.

A. Plumbing shall be maintained in good operational condition.

B. An adequate supply of hot and cold running water shall be available at all times.

Compliance Determination for §§ 350.A and B:

1. Turn on several faucets to determine if they work properly.

2. Observe water drainage from washbowls, tubs and showers to determine whether drains are clogged.

3. Flush several toilets.

4. Determine whether there are leaky faucets or any other leakage of water, such as the bases of the toilets, which might affect operation.

5. Determine whether there is sufficient water pressure in the faucets and toilets.

6. Turn on several faucets to determine if both hot and cold water are available and if the water pressure is adequate.

7. Ask the administrator how he assures that an adequate supply of both hot and cold water is available at all times.

C. Precautions shall be taken to prevent scalding from running water.

D. Mixing faucets shall be installed in all newly constructed buildings and when making structural modifications or additions to existing buildings.

Interpretation of § 350.D: Using mixing faucets, which allow a mixture of hot and cold water to be used, is one precaution to prevent scalding. Another is to regulate the thermostat on the water heater. Water temperature should be controlled no higher than 120 degrees.

Compliance Determination for § 3.50.D:

1. Ask the administrator what precautions are used to prevent scalding.

2. Observe these precautions.

22 VAC 42-10-360. Toilet Facilities.

A. There shall be at least one toilet, one hand basin and one shower or bathtub in each living unit.

B. There shall be at least one bathroom equipped with a bathtub in each facility.

Intent of § 360. A and B: The intent of this requirement is to assure that children shall not have to go outside the living unit in order to use bathroom facilities. The intent of requiring a tub somewhere in the facility accessible to children is to provide an appropriate bathing alternative for a child who has (1) a physical handicap, (2) a temporary physical incapacity precluding standing, (3) a wound or skin condition requiring soaking or immersion, (4) a need for fever reduction (5) a personal preference, or (6) a need for a tub in other situations where a shower is not appropriate.

Interpretation of § 360.A: A living unit is defined as space in which a group of children reside. Such space contains sleeping areas, bath and toilet facilities, and a living room or its equivalent for use by the children. Depending upon its design, a building may contain only one living unit or several separate living units.

C. There shall be at least one toilet, one hand basin and one shower or tub for every eight residents.

D. There shall be one toilet, one hand basin and one shower or tub for every four residents in any building constructed or structurally modified after July 1, 1981 except secure detention facilities.

E. The maximum number of staff members on duty in the living unit shall be counted in determining the required number of toilets and hand basins when a separate bathroom is not provided for staff.

Compliance Determination for § 360:

1. *Count the toilets, hand basins and showers or tubs available in the facility for the residents' use, note the license capacity and divide the license capacity by the number of toilets, showers or tubs.*

   (Note: For construction before July 1, 1981 the ratio is 1:8, construction after July 1, 1981 requires a ratio of 1:4.)

2. *Note whether a separate bathroom is provided for staff on duty less than twenty-four (24) hours a day. If a separate bathroom is not provided, determine the maximum number of staff members on duty at any one time and add that number to the license capacity.*

3. *If a separate bathroom for staff is not provided divide the total number of staff members and the license capacity by the number of toilets and washbowls.*

F. There shall be at least one mirror securely fastened to the wall at a height appropriate for use in each room where hand basins are located except in security rooms in hospitals and secure custody facilities.

Interpretation of § 360.F: If necessary for security or safety purposes, mirrors may be made of polished metal or may be covered with an unbreakable acrylic plastic sheet such as plexiglass.

22 VAC 42-10-370. Personal Necessities.

A. An adequate supply of personal necessities shall be available to the residents at all times for purposes of personal hygiene and grooming. Personal necessities include, but are not necessarily limited to, soap, toilet tissue, toothpaste, individual tooth brushes, individual combs and shaving equipment.

Interpretation of § 370.A: For treatment purposes, the facility may require a resident to buy his own necessities from his earnings or allowance. If a resident fails to do so, the facility must make the items available or be deemed in noncompliance with this standard.

Compliance Determination for § 370.A:

1. *Observe the inventory of personal necessities to see if it is adequate for the number of residents. Determine whether the supply includes all essential personal items which might be needed by the age and type of residents.*

2. *Ask staff how personal supplies are made available to the residents. Ask the residents what personal necessities are available and how they are acquired.*

B. Clean, individual washcloths and towels shall be available once each week and more often if needed.

Interpretation of § 370.B: This does not preclude programs from requiring that residents do their own laundry.

Compliance Determination for § 370.B:

1. Observe the storage area where washcloths and towels are kept. Note whether *there are enough clean washcloths and towels so that residents can be given fresh ones once a week, leaving an adequate supply available for emergencies.*

2. *Observe the washcloths and towels used by the residents on the day of the visit. Note if individual washcloths and towels are used and if they appear to be relatively clean.*

3. *Ask staff how they ensure compliance with this standard. If a linen service is used, ask how often clean washcloths and towels are provided, how large an order is placed and how the facility deals with emergencies when additional supplies are needed. If the laundry is done on the premises, ask how frequently*

washcloths and towels are laundered. If the residents do their own laundry, ask what steps are taken to ensure the use of clean items. Ask the method of determining whether a resident needs a clean washcloth and towel more often than once each week and how these are made available if needed.

C. When residents are incontinent or not toilet trained:

1. Provision shall be made for sponging, diapering or other similar care on a nonabsorbent changing surface which shall be cleaned with warm soapy water after each use.

2. A covered diaper pail, or its equivalent, with leak proof disposable liners shall be available. If both cloth and disposable diapers are used there shall be a diaper pail for each.

3. Adapter seats and toilet chairs shall be cleaned immediately after each use with warm soapy water;

4. Staff shall thoroughly wash their hands with warm soapy water immediately after assisting a child or themselves with toileting.

Compliance Determination for § 370.B:

1. Note the provisions that are made for diapering and caring for infants or for similar care for older children who are not toilet trained.

2. Ask the child care staff how they ensure that the changing surface, adapter seats and toilet chairs are cleaned after each use.

3. Inquire of staff and observe, if possible, whether they thoroughly wash their hands with warm soapy water immediately after assisting with toileting.

22 VAC 42-10-380. Sleeping Areas.

Interpretation of § 380: For the purpose of these standards, a sleeping area is a space designated for that purpose, having walls that are not necessarily of ceiling height but which are capable of supporting a door.

A. When residents are four years of age or older, boys and girls shall have separate sleeping areas.

B. No more than four children may share a bedroom or sleeping area except as provided by other applicable state regulations governing juvenile correctional centers and boot camps.

Intent of § 380: The intent of this standard is to make the sleeping area conducive to rest and relieve crowding.

C. Children who use wheelchairs, crutches, canes or other mechanical devices for assistance in walking shall be provided with a planned, personalized means of effective egress for use in emergencies.

Compliance Determination for § 380.C:
Determine if any children with these needs are placed at the facility. Observe where these children are assigned sleeping quarters and determine that they have a planned means of effective egress

D. Beds shall be at least three feet apart at the head, foot and sides and double-decker beds shall be at least five feet apart at the head, foot and sides.

Interpretation of § 380.D: Studies have shown that cold germs, viruses and similar contagious diseases are dispelled to a distance of slightly less than three feet. Placement of beds a minimum of three feet apart assists in reducing the spread of disease and the likelihood of children being accidentally injured by rowdy play in an overcrowded area. Additional space is needed to allow adequate room when there are double-decker beds. It is a violation of this section if the specified distances are not maintained.

E. Sleeping quarters in facilities licensed by the DSS prior to July 1, 1981 and facilities established, constructed or structurally modified after July 1, 1981, except for primitive campsites, shall have:

1. At least 80 square feet of floor area in a bedroom accommodating one person;

2. At least 60 square feet of floor area per person in rooms accommodating two or more persons; and

3. Ceilings at least 7½ feet in height.

Intent of § 380.E: Research has indicated that crowding may be stressful for children. The spatial needs of children depend upon the child's individual make-up and the programs and services provided. This standard sets forth what is felt to be minimum spatial requirements for adequate child care.

Interpretation of § 380.E: In order to avoid imposing a hardship on facilities established or constructed under other standards and to assure improved spatial arrangements in future facilities, this standard is applicable only to facilities licensed by the Department of Social Services prior to July 1, 1981 and to facilities established or constructed after that date.

Where this standard applies, calculations are to be made separately for each room. The capacity of each room is controlled by the most restrictive measurement. If, for example, after calculations are carried out, the capacity of a room turns out to be 2.8 children, the fraction is to be disregarded and the room can accommodate only two children.

The following table may be helpful in converting inches to feet:

1" = .083'	*5" = .416'*	*9" = .75'*
2" = .166'	*6" = .5*	*10" = .833'*
3" = .25'	*7" = .583'*	*11" = .916'*
4" = .333'	*8" = .666'*	*12" = 1.0'*

Compliance Determination for § 380.E:

1. Determine the length, width, height of the ceiling, and area.

2. Observe that ceilings are at least 7½ feet in height.

3. To determine the area of the room multiply the length of the room by the width. Subtract the area of any built-in closets, portable wardrobes, or protrusions from the area of the room. The area should equal or exceed:

80 square feet if the room houses one child
120 square feet for two children
180 square feet for three children
240 square feet for four children

F. Each child shall have a separate, clean, comfortable bed equipped with mattress, pillow, blankets, bed linens, and, if needed, a waterproof mattress cover.

Compliance Determination for § 380.F:

1. Compare the total number of beds with the total number of children and confirm space is allotted for each child to have a separate bed with a mattress, pillow, blanket(s), sheets and a pillow case.

2. Note whether waterproof mattress covers are available and ask the administrator if they are placed on the beds of children who need them.

3. Observe the beds for lumps or sagging. Sit on several beds and press down on the mattresses to determine if they are comfortable.

G. Bed linens shall be changed at least every seven days and more often, if needed.

Compliance Determination for § 380.G:

1. Observe the linens on the beds and note whether they appear to be relatively clean.

2. Ask the administrator how he ensures compliance with the standard requiring bed linens be changed at least every seven days, or more often, if needed.

3. If a linen service is used, ask how often clean linens are provided, how large an order is placed and how the facility deals with emergencies when additional linens are needed. If laundry is done on the premises, ask how frequently bed linens are laundered.

4. Ask the method of determining whether a child needs his bed linens changed more often than every seven days and how the linens are made available if needed.

5. Observe the storage area where bed linens are kept. Note whether there is a supply available for emergencies.

6. Ask the children how often bed linens are changed.

H. Mattresses and pillows shall be clean.

I. Mattresses shall be fire retardant as evidenced by documentation from the manufacturer.

Interpretation of § 380.I: The Standard for the Flammability of Mattresses (and Mattress Pads) (originally DOC-FF-4-72) was issued by the Consumer Product Safety Commission under the provisions of the Flammable Fabrics Act (FFA 15 U/S/C. 1191 et seq.) and has been in effect since June 22, 1973. The original regulation required that all mattresses and pillows manufactured on or after June 22, 1973, be chemically treated to a federal standard of fire retardancy. The regulation exempted those which were manufactured for use under a physician's written prescription due to the medical condition of the user.

The Standard for the Flammability of Mattresses (and Mattress Pads) (now 16 CRF 1632) was amended with an effective date of April 10, 1985, by the Consumer Product Safety Commission. Among other revisions, the amended regulation removed the requirement for fire retardancy of pillows.

Since July 1, 1981, licensure/certification requirements have required documentation certifying the fire retardancy of mattresses for all placed in service on or after July 1, 1981.

The Standard for the Flammability of Mattresses (and Mattress Pads) requires that mattress labels show the name and location of the manufacturer but do not require a statement that they are fire retardant.

Facilities are responsible for obtaining, maintaining, and providing documentation that mattresses are fire retardant.

Facilities must provide documentation that existing MATTRESSES comply with federal regulations.

The only exception to the use of a fire retardant mattress is when a physician has prescribed the use of a non-fire retardant mattress for a resident. The facility must maintain a copy of the prescription and document the location of the mattress in the resident's record stating that it is NOT fire retardant. A non-fire retardant mattress may be used only by the resident for whom prescribed and must be removed from service upon the resident's discharge.

Compliance Determination for § 380.I :

1. Review written documentation from the manufacturer that mattresses meet federal fire retardancy requirements; or

2. Observe manufacturers labels attached to the mattresses and which are clearly labeled "fire retardant," "fire resistant," "meets DOC-FF-4-72," "meets 16 CRF 1632," "meets Federal Flammability Standards," or a similar statement" or

3. Review written documentation from an independent testing laboratory that mattresses meet federal fire retardancy requirements or are deemed fire resistant.

J. Cribs shall be provided for residents under two years of age.

K. Each resident shall be assigned drawer space and closet space, or their equivalent, which is accessible to the sleeping area for storage of clothing and personal belongings except in secure custody facilities.

Interpretation of § 380.K: Drawer and closet space must be accessible to the sleeping area for storage of daily use items such as toothbrush, deodorant, and a change of clothing but there is no requirement that it be in the resident's room. Any kind of space, including portable wardrobes and curtained-off areas, is acceptable as an equivalent to closet space if there is room for the resident to hang his clothes and there is adequate floor space.

L. The sleeping areas' environment shall be conducive to sleep and rest.

Interpretation of § 380.L: This standard does not preclude residents from decorating their rooms with vibrant colors, posters, etc. Its main purpose is to control noise, light and other potentially disrupting factors in the sleeping area.

22 VAC 42-10-385. Smoking Prohibition.

Smoking shall be prohibited in living areas and in areas where residents participate in programs.

Intent of § 385: This standard is intended to protect the facility and residents from accidental fires and to ensure the comfort of non-smoking residents and those who may suffer from allergies or other conditions which might be aggravated by smoke.

The Code of Virginia (§ 18.2-371.2) prohibits the purchase or possession of tobacco products by minors. This Code section also prohibits persons from selling to, distributing to, purchasing for, or knowingly permitting the purchase by any minor, any tobacco products.

Interpretation of § 385: The phrase "any person" is intended to include staff and visitors, as well as residents.

Facilities are allowed to designate a staff smoking area away from resident living and program areas.

Compliance Determination for § 385:

1. *Ask the administrator how he ensures compliance with this standard.*

2. *Note whether there are ashtrays, cigarette burns or other indications that residents, staff, or visitors smoke in living areas and in areas where residents participate in programs.*

22 VAC 42-10-390. Residents' Privacy.

Intent of § 390: The intent of § 390, is to provide an effective means of achieving privacy in the bathrooms, dressing areas and bedrooms used by residents. This result may be achieved by a variety of means including shades, blinds, curtains, shutters, frosted or opaque glass or plastic, or the design of the window itself.

A. When bathrooms are not designated for individual use, except in secure custody facilities:

1. Each toilet shall be enclosed for privacy, and

2. Bathtubs and showers shall provide visual privacy for bathing by use of enclosures, curtains or other appropriate means.

B. Windows in bathrooms, sleeping areas, and dressing areas shall provide for privacy.

C. Every sleeping area shall have a door that may be closed for privacy or quiet and this door shall be readily opened in case of fire or other emergency. In secure custody facilities, the door may be equipped with an observation window.

Interpretation of § 390: Stalls, curtains or other coverings around toilets and tubs or showers are appropriate enclosures. It is not required that the enclosures extend from floor to ceiling; they must, however, ensure visual privacy.

The "windows" referred to here are normally those in the external wall of a room used to permit sunlight in and the occupant to view the outside. Since the objective is privacy, "window" also includes the improbable circumstance where there is a window in the wall separating the bedroom, dressing area or bathroom from another room. "Window" also includes a window in a bedroom door. A DMHMRSAS or DJJ facility may have a policy to keep such a window unobstructed for security purposes. In such cases, the facility should protect the privacy of the residents as much as possible consistent with legitimate security considerations.

Compliance Determination for § 390:

1. *Observe whether the windows or window coverings in all of the bathrooms residents use provide for privacy.*

2. *Observe whether the windows or window coverings in sleeping and dressing areas residents use provide for privacy.*

3. Observe if every sleeping area has a door that may be closed for privacy or quiet and check to see if it may be opened easily in case of fire or other emergency.

4. Note that doors to sleeping areas are not readily operable by residents in secure detention and possibly other special settings. Staff should be interviewed to check that fire and other emergency release procedures exist.

22 VAC 42-10-400. Living Rooms and Indoor Recreation Space.

A. Each living unit shall have a living room, or other area for informal use, for relaxation and entertainment. The furnishings shall provide a comfortable, home-like environment that is appropriate to the ages of the residents.

Compliance Determination for § 400.A:
Observe each living room area and evaluate whether its furniture, furnishings, decorations, bric-a-brac and other materials are appropriate to the age and types of residents, create a home-like atmosphere, and are conducive to relaxation and entertainment.

B. Facilities licensed or certified to care for 13 or more residents shall have indoor recreation space that contains recreation equipment appropriate to the ages and interests of the residents. The indoor recreation space shall be distinct from the living room, but recreation space is not required in every living unit.

Compliance Determination for § 400.B:
If the facility cares for 13 or more residents, note whether there is at least one indoor recreational area in the facility distinct from the living room. This area may be in another building.

22 VAC 42-10-410. Study Space.

A. Facilities serving a school age population shall provide study space. Study space may be assigned in areas used interchangeably for other purposes.

B. Study space shall be well lighted, quiet and equipped with tables or desks and chairs.

Compliance Determination for § 410:
1. Note the number of school-age residents and evaluate whether the assigned space is adequate for study use for that number of residents.

2. Ask staff what provisions are made to assure quiet in the study area during times when residents are studying.

22 VAC 42-10-420. Kitchen and Dining Areas.

Interpretation for § 420: In facilities with multiple kitchens, all standards relating to the kitchen are to be applied to all kitchens serving residents. This includes the central kitchen as well as any other kitchens from which food is served directly to residents. It does not include any kitchen which is part of a commercial or semi-commercial operation serving food that may be purchased by the public, including the residents.

A. Meals shall be served in areas equipped with sturdy tables and benches or chairs which are size and age appropriate for the residents.

B. Adequate kitchen facilities and equipment shall be provided for preparation and serving of meals.

Interpretation of § 420.B: The capacity of the facility, the needs of the residents, and whether or not the food service is catered are factors to be considered in determining the adequacy of the kitchen facilities and equipment. There should be suitable equipment and facilities for storing food, preparing meals and cleaning up after meals.

C. Walk-in refrigerators, freezers, and other enclosures shall be equipped to permit emergency exits.

Compliance Determination for § 420:

1. *Observe the dining area(s). Note whether it is equipped with sturdy and size appropriate tables and benches or chairs. If not, ask staff what arrangements are made for providing such equipment at meal times.*

2. *Note whether walk-in refrigerators, freezers, and other air-tight enclosures are equipped to permit an emergency exit from inside. If emergency exit equipment is not immediately obvious, ask staff how an emergency exit is assured.*

22 VAC 42-10-430. Laundry Areas.

Appropriate space and equipment in good repair shall be provided if laundry is done at the facility.

Compliance Determination for § 430:

1. *If laundry is done at the facility, ask to see the equipment and area(s) utilized for these services.*

2. *Evaluate whether the space and equipment are appropriate and sufficient in relation to the capacity of the facility and the needs of the residents.*

3. *Note whether the equipment appears to be in good repair by turning equipment on and checking to see if the machines work.*

22 VAC 42-10-440. Storage.

Space shall be provided for safe storage of items such as first aid equipment, household supplies, recreational equipment, luggage, out-of-season clothing, and other materials.

Compliance Determination for § 440:

1. *Ask staff what provisions are made for storage.*

2. *Observe the assigned storage areas. Note that first aid equipment should be stored so as to be readily accessible for minor injuries and medical emergencies. See Standard § 710.I for additional information on first aid kits.*

3. *Blocking emergency exits is prohibited.*

22 VAC 42-10-450. Staff Quarters.

A. A separate, private bedroom shall be provided for staff and their families when a staff member is on duty for 24 consecutive hours or more.

B. A separate private bathroom shall be provided for staff and their families when there are more than four persons in the living unit and the staff person is on duty for 24 consecutive hours or more.

Interpretation of § 450: The staff bedroom must be located within the living unit but must be separate from the areas used by the residents and must have a door or other means of assuring privacy.

If more than one staff member is on 24 hour duty in the living unit, it is not required that there be a separate bedroom for each staff member. The same bedroom may be available to different staff members when they are on duty.

The bathroom provided for staff and their families must be located within the living unit but must be separate from the areas used by the residents and must have a door or other means of assuring privacy.

A private bathroom is required for staff when there are more than four persons in the living unit, including residents, staff, and family of staff, and the staff person is on duty for 24 hours.

C. Staff and members of their families shall not share bedrooms with residents.

Interpretation of § 450.C: This includes off duty, as well as, on duty staff, at or away from the facility.

D. When 13 or more residents reside in a living unit a separate, private living room shall be provided for child care staff who are required to be in the living unit for 24 hours or more, except at primitive campsites.

Interpretation of § 450.D: The staff living room must be located within the living unit but must be separate from the areas used by the residents and must have a door or other means of assuring privacy. A screened off area in a staff bedroom may serve as a staff living room.

E. When child care staff are on duty for less than 24 hours, a bed shall be provided for use by each staff member on duty during night hours unless the staff member is required to stay awake.

Interpretation of § 450.E: It is not required that there be a separate bedroom provided for staff members on duty for less than 24 hours. The only requirement is that a bed be provided for their use when on duty during night hours. A "bed" may be a cot or fold out sofa. It must be large enough to accommodate the size of the staff person.

Compliance Determination for § 450:

1. *Note if there are any indications that staff or members of their families share bedrooms with residents.*

2. *Determine the number of residents residing in the living unit. If more than 13 note if a private living area is provided for child care staff required to be on the unit for more than 24 hours.*

3. *Note if a bed is available for each staff member on duty during the night hours unless the staff member is required to remain awake.*

22 VAC 42-10-460. Office Space.

Space shall be provided for administrative activities including, as appropriate to the program, confidential conversations and provision for storage of records and materials.

Compliance Determination for § 460:

1. *Ask the administrator what provisions are made for administrative activities, including confidential conversations and storage of records and materials.*

2. *Observe the space for administrative activities.*

22 VAC 42-10-470. Buildings and Grounds.

A. The facility's grounds shall be safe, properly maintained, and free of clutter and rubbish. The grounds include, but are not limited to, all areas where residents, staff, and visitors may reasonably be expected to have access,

including roads, pavements, parking lots, open areas, stairways, railings, and potentially hazardous or dangerous areas.

Interpretation of §470.A: Hazardous areas are any areas in the building or on the grounds which might be a source of danger to children, staff or visitors. Safeguards are means of preventing or minimizing danger, particularly in areas where the hazards cannot be eliminated.

Compliance Determination for § 470.A:

1. *Observe whether provision is made for water run-off or drainage in areas on the grounds where water might collect, such as low-lying areas and flat nonabsorbent surfaces.*

2. *Note whether there are any soggy or marshy areas on the grounds or any areas of standing water caused by poor drainage.*

3. *Note whether there is trash or litter on the grounds and if the grounds are maintained.*

4. *Notice whether roads, pavements and parking lots are free of hazards, such as pot-holes, loose paving, mud, debris, and obstacles. Ask the administrator how roads, pavements and parking lots are cleared of snow and ice when they occur and how safety is assured.*

5. *Notice whether roads and parking lots are properly signposted for safety.*

6. *Determine if there are any potentially hazardous areas in the buildings or on the grounds.*

7. *Note whether safeguards such as fences, railings, lighting, warning signs and other means have been provided for all hazardous areas.*

8. *Review the inspection reports submitted by the local sanitarian, local building official, the local fire department or the State Fire Marshal. Note whether any of these reports indicate the accumulation of rubbish.*

B. The interior and exterior of all buildings shall be safe, properly maintained, clean and in good working order. This includes, but is not limited to, required locks, mechanical devices, indoor and outdoor equipment, and furnishings.

Interpretation of § 470.B: Good repair means that buildings are sound inside and out, are free of leakage, electrical and mechanical malfunctions, falling plaster and other unstable conditions; that all fixtures are safe and properly functioning; and that paint and other such work is in good condition.

There is a fine line between imposing personal standards of cleanliness on a facility and determining if it is in compliance. The criterion for judgment is reasonableness.

Compliance Determination for § 470.B:

1. *Review the inspection reports submitted by the local sanitarian, the local building official, the local fire department or the State Fire Marshal. Note whether any of these reports indicates that repairs are necessary.*

2. *Observe the interior and exterior of buildings. Evaluate whether they are reasonably clean and free of rubbish. Evaluate required locks and mechanical devices, when applicable.*

3. *Observe the furnishings, furniture, and all indoor and outdoor equipment to determine if they appear to be clean and in good repair.*

4. *Sit on several chairs, beds and sofas to see if they are free of broken springs and in good repair. Test several pieces of equipment, such as playground and recreation equipment, televisions and lamps, to see if they are working properly.*

C. Outdoor recreation space shall be available and appropriately equipped for the residents' use.

Compliance Determination for § 470.C:
Evaluate whether the outdoor recreation space is adequate and appropriately equipped in relation to the ages, developmental levels, interests and needs of the residents.

22 VAC 42-10-480. Equipment and Furnishings.

A. All furnishings and equipment shall be safe, clean, and suitable to the ages and number of residents.

Interpretation of § 480.A: Furnishings include rugs, decorations, lamps, and similar items as well as furniture. Equipment includes interior and exterior items.

Compliance Determination for 480.A:
Observe the furnishings and equipment and assess whether they are relatively easy to clean and safe/appropriate for the ages and number of residents.

B. There shall be at least one continuously operable, non-pay telephone accessible to staff in each building in which children sleep or participate in programs.

Interpretation of § 480.B: This standard assures that help can be summoned quickly in an emergency without losing time to hunt for coins. If the facility has a switchboard during office hours, the telephones referred to in this standard must be operable when the switchboard closes down.

Compliance Determination for § 480.B:

1. *Observe that there is at least one operable non-pay telephone in each building where children sleep or participate in programs.*

2. *Ask staff whether the above telephones are continuously operable 24 hours a day.*

3. *Observe the location of each of these telephones. Note if they are accessible to staff. If any of the telephones are located in an office, ask staff if the office is locked at night. If so, ask if all night staff have easy access to a key to the office.*

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

A. All buildings shall be well-ventilated and free of stale, musty or foul odors.

Compliance Determination of § 490:

1. *Review the report from the health department. Note any comments regarding ventilation of the kitchen area.*

2. *Note the quality of the air in all buildings. Note if there are unpleasant odors or if any rooms seem to be stuffy.*

B. Adequate provision shall be made for the collection and legal disposal of garbage and waste materials.

C. Buildings shall be kept free of flies, roaches, rats and other vermin.

D. All linens shall be kept clean and in good repair.

E. A sanitizing agent shall be used in the laundering of bed, bath, table and kitchen linens.

Intent of § 490.E: The intent of this standard is to assure that bed, bath, table and kitchen linens are sanitized after being used by one resident prior to being used by another resident so as to prevent the transmission of bacteria or parasites from one resident to another.

Interpretation of § 490.E: According to health department officials, any product containing chlorine bleach (laundry bleach with an active ingredient of 5.25% sodium hypochlorite) is a sanitizing agent. If a commercial or state operated laundry is used, the facility shall be deemed to be in compliance with this standard.

Compliance Determination for § 490.E:

1. *Ask staff whether bed, bath, table and kitchen linens are laundered on the premises or if a linen service is used.*

2. *If laundry is done on the premises, ask appropriate staff whether a sanitizing agent is used in the laundering of the above items.*

3. *Ask residents who do laundry if they use a sanitizing agent for items shared with others.*

22 VAC 42-10-500. Farm and Domestic Animals.

A. Horses and other animals maintained on the premises shall be quartered at a reasonable distance from sleeping, living, eating and food preparation areas.

Interpretation of § 500: "Other animals" include wildlife, farm animals and large domesticated animals which are not normally expected to share lodging or shelter with humans.

Compliance Determination for § 500:

1. *Determine whether horses or other animals are maintained on the premises of the facility.*

2. *Evaluate the location(s) of quarters for horses and other animals to determine whether these quarters are reasonably separated from areas where residents and staff sleep, live, eat and prepare food.*

B. Stables and corrals shall be located so as to prevent contamination of water supplies.

Interpretation of § 500.B: This standard refers primarily to any natural water supply on the premises of the facility such as, but not limited to, wells or springs. An inspection and report on the environmental health conditions at the facility, including the safety of the water supply, will be requested with the initial application and at least annually thereafter.

Compliance Determination for § 500.B:

1. *Review the report from health authorities and note any violations cited in regard to the safety of the water supply due to stables and corrals.*

2. *If violations are cited, the state or local health authorities are responsible for determining that deficiencies have been corrected.*

C. Manure shall be removed from stalls and corrals as often as necessary to prevent fly problems.

Compliance Determination for § 500.C:

1. *Observe stalls and corrals to determine whether manure has been removed and flies are reasonably controlled.*

2. *Talk with the administrator about the ongoing method used to assure that manure is removed from stalls and corrals frequently enough to prevent the development of a fly problem.*

D. Animals maintained on the premises shall be tested, inoculated and licensed as required by law.

Interpretation of § 500.D: The requirement in this standard applies to all warm-blooded pets owned or under the supervision of a resident, including wildlife which has been domesticated or is under observation. State law requires that dogs and cats be vaccinated.

Compliance Determination for § 500.D:

1. *View dog licenses and documentation of rabies vaccination of all dogs and cats in accordance with state law.*

2. *Ask staff if a local ordinance is applicable, if so review written documentation regarding the vaccination of all other warm-blooded pets to be sure that all such pets owned or under the supervision of a resident have been vaccinated, that the vaccinations are current, and there is a written record of the type and date of each.*

E. The premises shall be kept free of stray domestic animals.

Compliance Determination for § 500.E:

1. *Observe the premises for the presence of any apparently stray domestic animals.*

2. *Talk with staff to determine how the premises are kept free of stray domestic animals.*

F. Pets shall be provided with clean quarters and adequate food and water.

Compliance Determination for § 500.F:

1. *Observe any dogs, cats and other small pets and their quarters to determine if both the pets and their quarters appear to be reasonably clean.*

2. *Talk with staff to determine how compliance with this standard is assured.*

22 VAC 42-10-510. Campsites.

A. This section is applicable exclusively to the residential environment and equipment at wilderness camps. Permanent buildings and other aspects of

the residential environment at a wilderness camp shall comply with all other standards in this part.

Interpretation of § 510: An occasional camping trip sponsored by the facility, as part of a recreational program, for example, is considered an excursion. Standards on primitive campsites, § 510, do not apply.

Primitive camping refers to a type of program in which facilities and activities are as closely related to nature as possible. The primitive campsites are left essentially in their natural state, and living and program quarters and activities are integrated into the natural environment. Few alterations or developments are made to the natural environment beyond measures necessary to assure the health, safety and well-being of the residents.

An experience curriculum integrates real living needs and problems into the program design and gives residents opportunities to participate in a wide range of activities, to test out their skills in relation to life situations, and to learn while doing.

B. Campsites shall be well drained and free from depressions in which water may stand.

Intent of § 510.B: It is the intent of this section that water not be allowed to stand for a period of time sufficient to allow mosquitoes to breed.

Interpretation of § 510.B: Some soils are more suitable for rapid absorption of moisture than others. In addition, terrain will affect how quickly an area will drain. After heavy or prolonged rainfall, it is to be expected that some standing water may be present in a campsite. The mere presence of standing water or uneven ground does not constitute a violation of this section.

Consideration should be given to provisions made for water runoff or drainage in areas on the grounds where water might collect. The facility should provide for natural sinkholes, depressions, and other surface collectors of water to be drained or filled in if an area has not drained naturally within 48 hours following precipitation.

When making a determination on compliance with this section, consideration should be given to the variables enumerated above and to any other variables which are present. Variables may include the facility's efforts to drain or fill in areas which did not drain naturally within 48 hours.

C. Natural sink-holes and other surface collectors of water shall be either drained or filled to prevent the breeding of mosquitoes.

D. Campsites shall not be located in proximity to conditions that create or are likely to create offensive odors, flies, noise, traffic, or other hazards.

E. Campsites shall be free from debris, noxious plants, and uncontrolled weeds or brush.

Compliance Determination for § 510.B-E:

1. *Observe any provisions made for water run-off or drainage in areas on the grounds where water might collect, such as low-lying areas and flat, less-absorbent surfaces.*

2. *Note any soggy or marshy areas on the ground or any areas of standing water which might be caused by poor drainage.*

3. *Observe natural sinkholes, depressions, and other surface collectors of water to see whether they have either been drained or filled in.*

4. *Observe the property and activities adjacent to and in proximity to the site occupied by the campsite and note any conditions in adjacent or nearby areas which create or might create the hazards cited in the standard.*

5. *Observe the camp site to determine whether it is free from debris and whether weeds and brush are reasonably controlled.*

F. Drinking water used at campsites and during activities away from permanent campsites shall be from a source known to be free of coliform organisms or shall be treated before use in a manner approved by the Virginia Department of Health.

G. An adequate supply of water, under pressure where possible, shall be provided at the cooking area for hand washing, dish washing, food preparation and drinking.

Compliance Determination for § 510. F and G:

1. *Review the report from state health authorities and note any violations cited in regard to the water supply or water distribution systems.*

2. *If violations are cited, the State or local health authorities are responsible for determining that deficiencies have been corrected.*

3. *Review the report of the health authorities to determine if the location of the water supply is convenient and if the amount of water available is adequate for drinking, cooking, bathing and laundry purposes.*

4. *Talk with the administrator about the method used to assure that drinking water used on hikes, camping excursions and other trips away from the main camp is obtained from a safe source or is rendered safe in a manner approved by health authorities.*

   Note: This part of the standard refers to drinking water which is not obtained from the camp's regular water supply and has not been approved through the inspection process. State Health Department representatives urge that water from an approved source be transported on hikes and outings.

H. Food shall be obtained from approved sources and shall be properly identified.

Intent of § 510.H: The intent of the requirement that food be from approved sources is to avoid health problems resulting from consumption of dangerous or improperly prepared foods. This may occur more frequently in camp situations where food may be home-processed, rather than commercially prepared and inspected. For example, botulism can develop in foods which have not been canned properly, and foods grown in home gardens can be dangerous if not properly cleansed of any poisonous substances used during the growing process. In order to avoid contamination from pollutants, fish used for food purposes should come from waters approved by the appropriate authorities. Commercially prepared food is considered to be from an "approved source."

Compliance Determination for § 510.H:

1. *Determine whether the contents of jars, canisters and other food storage containers are properly identified.*
2. *If food is secured from non-commercial sources, determine the means used to assure that the source is approved.*

I. Milk products shall be pasteurized.

Compliance Determination in § 510.I:
Determine the source of milk consumed and confirm from discussions with staff that milk is pasteurized.

J. Food and drink shall be maintained and stored using methods that prevent contamination.

K. Utensils shall be used to minimize the handling of food.

L. Fruits and vegetables shall be properly washed prior to use.

M. Food and food containers shall be covered and stored (i) off the ground and (ii) on clean surfaces. Refrigerated food shall be covered.

N. Sugar and other condiments shall be packaged or served in closed dispensers.

O. Poisonous and toxic materials shall be properly used, properly identified and stored separately from food.

P. Persons with wounds or communicable diseases shall be prohibited from handling food.

Q. Persons who handle food and eating utensils for the group shall maintain personal cleanliness, keep their hands clean at all times, and thoroughly wash their hands with soap and water after each visit to the toilet.

R. Food contact surfaces shall be kept clean.

S. All eating utensils and cookware shall be properly stored.

T. Disposable and single use dishes, receptacles and utensils shall be properly stored, handled and used only once.

U. Eating utensils shall not be stored with food or other materials and substances.

V. Use of a common drinking cup shall be prohibited.

W. Only food which can be maintained in wholesome condition with the available equipment shall be used.

X. Ice which comes in contact with food or drink shall be obtained from an approved source and shall be made, delivered, stored, handled and dispensed in a sanitary manner and shall be free from contamination.

Y. When ice and ice chests are used, meats and other perishable foods shall not be stored for more than 24 hours.

Z. Eating utensils and cookware shall be washed after each use.

AA. No dish, receptacle or utensil used in handling food for human consumption shall be used or kept for use if chipped, cracked, broken, damaged or constructed in a manner that prevents proper cleaning and sanitizing.

BB. Solid wastes which are generated shall be disposed of at an approved sanitary landfill or similar disposal facility. Where sanitary landfill facilities are not available, solid wastes shall be disposed of daily by burial under at least two feet of compacted earth cover in a location which is not subject to flooding.

Compliance Determination for § 510.J-BB:

1. *Determine whether methods used for storage of foods adequately deter spoilage and contamination. If there is some question about the effectiveness of the method(s) being used, it may be necessary to open some of the food and check for spoilage.*

   Potentially hazardous foods are those which are perishable and which could spoil if not maintained at sufficiently cool temperatures. Refrigeration is not necessarily required by this standard. In some types of wilderness camping,

refrigeration may not be possible or desirable. Food might be kept cool by other means, such as storage in ice chests or in natural areas like streams or caves. Whatever storage method is utilized, however, should prevent spoilage.
It should also be kept in mind that ice chests or naturally cool areas might not provide as consistent a temperature as would refrigerators. The life span of food stored in such ways might be shorter. If the camp program includes extended trips away from the main camp which cannot be observed during the study, talk with the administrator to determine what precautions are taken for storage of perishables during these trips.

Ask the administrator whether any foods have been identified as being difficult or impossible to maintain in a wholesome condition with the equipment available in the camp. If there are foods in this category, ascertain whether use of these foods is avoided.

2. *If ice and ice chests are used, assurance must be given by the administrator that meats and other perishable foods are not stored over 24 hours.*

3. *Talk with staff about the source(s) of any ice used with food or drink. If the source is a noncommercial one, review the reports from health or other appropriate authorities to determine whether the source of the camp's ice supply is approved. Talk with staff about how the camp's ice is made, delivered, stored, handled or dispensed so as to assure sanitary conditions and freedom from contamination.*

4. *Observe the storage area(s) for poisonous or potentially harmful materials to determine if it is separate from food service areas and if such materials are properly identified.*

5. *Observe the food storage area and determine that:*

    a. *Food and food containers are covered and are stored off the ground on clean surfaces.*

    b. *Refrigerated foods are covered.*

    c. *Sugar and other condiments are packaged in closed dispensers.*

6. *Determine whether persons handling food are free of wounds and that they are apparently free from communicable disease.*

7. *Observe food preparation, serving and consumption to determine that utensils are used to minimize the handling of food. Are fruits and vegetables rinsed with water prior to use? If observation is not feasible, seek assurance from the administrator that such care is taken.*

8. *Determine whether persons who handle food maintain cleanliness and thoroughly wash hands with soap and water.*

9. *Determine whether food contact surfaces are clean.*

10. Determine whether tableware, including flatware, glasses and china, and kitchenware, including pots, pans and other cooking and storage containers appear to be clean and properly stored (not with food or other materials and substances).

11. Determine whether any dish or receptacle used for the preparation or serving of food is cracked, chipped or broken.

12. Confirm with the administrator that all dishes and food preparation and serving receptacles are properly sanitized. (According to Health Department officials, "sanitize" means to wash or rinse with water containing a laundry bleach with an active ingredient of 5.25% sodium hypochlorite HCL. The amount of bleach used may be in accordance with the manufacturer's recommendation on the package.)

13. Determine that individual drinking cups are provided and that the use of common drinking cups is prohibited.

14. Determine the method for disposal of solid waste and determine compliance with the standard.

CC. Sanitary-type privies or portable toilets shall be provided where a water supply is not available. Such facilities shall be constructed as required by the Virginia Department of Health.

DD. All facilities provided for excreta and liquid waste disposal shall be maintained and operated in a sanitary manner to eliminate possible health or pollution hazards, to prevent access of flies and animals to their contents, and to prevent fly breeding.

EE. Privies shall be located at least 150 feet from streams, lakes, and wells and at least 75 feet from sleeping and housing facilities.

FF. Campsites which do not have approved permanent toilet facilities shall have a minimum ratio of one toilet seat for every 15 persons.

GG. If chemical control is used to supplement good sanitation practices, proper pesticides and other chemicals shall be used safely and in strict accordance with label instructions.

<u>Interpretation of § 510.GG:</u> This standard is applicable if the camp uses pesticides or other chemicals in the control of insects, rodents, or odors. Proper pesticides are those that are appropriate for extermination of specific insects or rodents and which may be applied legally.

<u>Compliance Determination for § 510.CC-GG:</u>

1. Review the report from health authorities and note any violations cited in regard to the sewage disposal system. If violations are cited, the state or local health authorities are responsible for determining that deficiencies have been corrected. An inspection and report as to the environmental health conditions at the camp,

including the sewage disposal system, will be requested with the initial application and at least annually thereafter.

2. *Survey the sewage disposal facilities for any evidence of flies, leakage or other conditions which may present a health hazard.*

3. *Compare the total number of toilet seats provided with the total number of persons to determine whether there is at least one toilet seat for every fifteen persons. Urinals may be substituted for men's toilet seats on the basis of one urinal or twenty-four inches of trough-type urinal for one toilet seat up to a maximum of one-third of the required toilet seats. Each unit in the camp, however, must have at least one toilet seat.*

4. *Observe if privies are located at least 150 feet from a stream, lake or well and at least 75 feet from sleeping or housing.*

5. *Inquire if chemicals are used to supplement good sanitation practices; if so, determine the type of chemicals, and how they are used.*

6. *Ask the administrator how he/she assures that any chemicals used are appropriate for the use to which they are put and that their use is in accordance with label instructions.*

7. *Discuss procedures with staff responsible for application of chemicals.*

HH. Bedding shall be clean, dry, sanitary, and in good repair.

Interpretation of § 510.HH: Bedding may include such items as sleeping bags and bed rolls as well as sheets, blankets and mattresses.

Compliance Determination for § 510.HH:

1. *Observe the bedding provided to determine whether it appears to be clean, dry and sanitary.*

2. *Talk with the administrator, staff, or residents about how often bedding is laundered and how sleeping bags or bed rolls, if used, are kept clean.*

II. Bedding shall be adequate to ensure protection and comfort in cold weather.

Compliance Determination for § 510.II:

1. *Ask residents and staff whether their bedding, given the heating provided, was adequate to ensure their protection and comfort in the coldest weather.*

2. *Evaluate the bedding for adequacy.*

JJ. Sleeping bags, if used, shall be fiberfill and rated for 0° F.

Compliance Determination for § 510.JJ:
If sleeping bags are used, inspect and confirm that they are rated for 0□F and appear to be made of fiberfill. If doubt exists, ask for literature/warranties/evidence of temperature rating and type of filling.

KK. Linens shall be changed as often as required for cleanliness and sanitation but not less frequently than once a week.

Interpretation of § 510.KK: "Linens" refer to bed linens (e.g., sheets, pillow cases, bed rolls, etc.)

Compliance Determination for § 510.KK:

1. *Observe the storage area(s) where linens are kept, noting whether there are enough clean linens so that they can be changed at least once a week and that there will still be an adequate supply available for emergencies.*

2. *Observe the linens in use to determine whether they appear to be relatively clean.*

3. *Talk with the administrator about how he assures compliance with this standard. If laundry is done at the camp, ask how frequently linens are laundered. If laundry is not done at the camp, ask what method is used to provide an adequate supply of linens.*

LL. Bed wetters shall have their bedding changed or dried as often as it is wet.

Intent of § 510.LL: It is the intent of this standard that bedwetters not be required to use wet or soiled bedding, including wet sleeping bags.

Interpretation of § 510.LL: The bedding shall be exchanged for clean, dry bedding whenever it is soiled. The sleeping bags of bedwetters shall be cleaned and dried whenever soiled.

Compliance Determination for § 510.LL:
Ask the staff what routine provisions exist to clean and dry the soiled bedding of residents who are bedwetters.

MM. Mattresses, if used, shall be clean.

NN. Mattresses shall be fire retardant as evidenced by documentation from the manufacturer.

Intent of § 510.NN: This section is intended to provide protection to residents in the event of fires which are ignited in the proximity of the residents' beds. Such fires might lead to death, personal injury, or significant property damage. It is also intended that mattresses and pillows be maintained in a clean condition.

Interpretation of § 510.NN: The Standard for the Flammability of Mattresses (and Mattress Pads) originally DOC-FF-4-72) was issued by the Consumer Product Safety Commission under the provisions of the Flammable Fabrics Act (FFA 15 U.S.C. 1191 et seq.) and has been in effect since June 22, 1973. The original regulation required that all mattresses and pillows manufactured on or after June 22, 1973, be chemically treated to a federal standard of fire retardancy. The regulation exempted those which were manufactured for use under a physician's written prescription due to the medical condition of the user.

The Standard for the Flammability of Mattresses (and Mattress Pads) (now 16 CRY 1632) was amended with an effective date of April 10, 1985, by the Consumer Product Safety Commission. Among other revisions, the amended regulation removed the requirement for fire retardancy of pillows.

Since July 1, 1981, licensure/certification requirements have required documentation certifying the fire retardancy of mattresses for all placed in service on or after July 1, 1981.

The Standard for the Flammability of Mattresses (and Mattress Pads) requires that mattress labels show the name and location of the manufacturer but do not require a statement that they are fire retardant.

Facilities are responsible for obtaining, maintaining, and providing documentation that mattresses are fire retardant.

Facilities must provide documentation that existing mattresses comply with the federal regulation.

The only exception to the use of a fire retardant mattress is when a physician has prescribed the use of non-fire retardant mattress/pillow for a resident. The facility must maintain a copy of the prescription and document the location of the mattress in the resident's record. A label should be placed on the mattress stating that it is NOT fire retardant. A non-fire retardant mattress may be used only by the resident for whom prescribed and must be removed from service upon the resident's discharge.

Compliance Determination of § 510.NN for MATTRESSES:

1. *Review written documentation from the manufacturer that mattresses meet federal fire retardancy requirements; or*

2. *Review written documentation that mattresses have been treated to meet federal fire retardancy requirements after they were manufactured/purchased; or*

3. *Observe manufacturers labels attached to the mattresses and which are clearly labeled "fire retardant," "fire resistant," "meets DOC-FF-4-72," "meets 16 CRF 1632," "meets Federal Flammability Standards," or a similar statement"; or*

4. *Review written documentation from an independent testing laboratory that mattresses meet federal fire retardancy requirements or are deemed fire resistant.*

OO. A mattress cover shall be provided for each mattress.

PP. Sleeping areas shall be protected by screening or other means to prevent admittance of flies and mosquitoes.

Interpretation of § 510.PP: It is not required that traditional type screens be used in sleeping areas. Mosquito netting and mesh-type doors and windows frequently found on tents would be acceptable if they protect the sleeping areas from flies and mosquitoes.

Compliance Determination for § 510.PP:
Observe doors, windows and other openings into sleeping areas for evidence that they are protected by screening or some other means against the admittance of flies and mosquitoes.

QQ. A separate bed, bunk or cot shall be made available for each person.

Interpretation of § 510.QQ: "Each person" includes all residents and overnight staff persons.

Compliance Determination for § 510.QQ:
Count the number of beds, bunks and cots and compare the total with the number of persons residing in the camp.

RR. Each resident shall be provided with an adequate supply of clean clothing which is suitable for outdoor living and is appropriate to the geographic location and season.

SS. Sturdy, water-resistant, outdoor footwear shall be provided for each resident.

TT. Each resident shall have adequate personal storage area.

Compliance Determination for § 510.RR-TT:

1. *Observe personal supplies of clothing for residents and evaluate for adequacy of supply and suitability for outdoor living.*
2. *Observe residents' shoes/boots for sturdiness and water resistance.*
3. *Ask residents and child care staff about the adequacy of supply of clean clothing and outdoor shoes.*
4. *Observe storage areas and determine the adequacy of storage space for residents' personal items.*

UU. Fire extinguishers of a 2A 10BC rating shall be maintained so that it is never necessary to travel more than 75 feet to a fire extinguisher from combustion-type heating devices, campfires or other source of combustion.

Compliance Determination for § 510.UU:

1. *Observe the presence of an approved 2A 10BC fire extinguisher immediately adjacent to the kitchen or food preparation area.*

2. *Observe the presence of approved 2A 10BC fire extinguishers within 75 feet of combustion-type heating devices and campfires.*

VV. Artificial lighting shall be provided in a safe manner.

Interpretation of § 510.VV: Electric lighting and battery powered flashlights and lanterns are acceptable lighting sources. Kerosene lanterns or hurricane lamps are also examples of acceptable lighting, as long as the lanterns are properly cleaned and maintained. Candles are not a safe lighting source.

WW. All areas of the campsite shall be lighted for safety when occupied by residents.

Interpretation of § 510.WW: Residents may carry flashlights or lanterns from one area of the campsite to another. Permanent lighting fixtures do not need to be installed along walkways.

XX. Staff of the same sex may share a sleeping area with the residents.

Interpretation of § 510.XX: Examples of sleeping areas include tents, hogans, cabins, and lean-to's. Residents and staff may not share the same sleeping bag, cot, bed or mattress.

YY. A telephone or other means of communication is required at each area where residents sleep or participate in programs.

Compliance Determination for § 510.VV-YY:

1. Observe the lighting sources used at the campsite. If kerosene lanterns or hurricane lamps are used, determine if they are clean and properly maintained. Look for leaks from the lanterns, that the lantern is properly capped, and that globes are not cracked or broken.

2. Discuss with staff and residents how lighting is provided in different areas of the campgrounds, including walkways, and the procedures for properly maintaining lighting sources.

3. Observe sleeping areas and determine where staff and residents sleep.

4. Ask staff and residents where they sleep.

5. Ask staff and residents how they communicate with others outside of the campsite.

6. Observe the communication equipment used and verify it is in working order.

PART IV PROGRAMS AND SERVICES

22 VAC 42-10-520. Acceptance of Children.

Children shall be accepted only by court order or by written placement agreement with legal guardians. This requirement does not apply to temporary care facilities when self-admission is made according to Virginia law.

Interpretation of § 520: "Accept" and "admit" are not synonymous. A child seeking self admission may be admitted, as permitted by statute, in accord with the facility's criteria for admission (see § 530) prior to the facility obtaining a court order or written placement agreement. A child may be accepted only when the facility has obtained a court order or written placement agreement. The facility must promptly implement its policies and procedures to obtain a court order or written placement agreement (see § 570).

The Code of Virginia does not address self admissions to facilities regulated by DOE, DMHMRSAS, or DJJ; in the absence of a prohibition, self admissions are considered permissible to such facilities.

Requirements for admission to temporary care facilities licensed by DSS are contained in § 63.1-204.A of the Code. Child Caring Institutions licensed by the Department of Social Services which are specifically approved as temporary care facilities are governed by the following requirements. If the facility is unable to obtain, from the legal guardian, verbal approval for placement within eight hours of the child's arrival, the facility must contact the local juvenile justice authorities and seek a temporary custody order in order to provide residential services to the child. If the facility has not obtained a written placement agreement within 24 hours of child's arrival or by the end of the next business day after the child's arrival, whichever is later, the facility must contact the local juvenile justice authorities and seek a temporary custody order in order to provide residential services to the child. The time frames are established by statute.

When applying § 520 to Child Caring Institutions licensed by the Department of Social Services which are specifically approved as temporary care facilities:

1, *Next business day" means the next day when administrative offices of the facility are open. When custody of the child is held by a local department of social services or public welfare, "next business day" means the next day when the administrative offices of both the facility and the local department are open (see § 63.1-56 of the Code Of Virginia). "Next business day" excludes weekends (unless the facility's administrative offices are open) and other days (including holidays) the facility's administrative office are closed*

2. *"End of the next business day" means the time at which the facility's administrative offices normally close (e.g. 5:00 p.m.) When custody of child is held by a local department of social services or public welfare, "end of the next business day" means the latter of the times when the facility's administrative offices normally close and the local department's offices close.*

Compliance Determination for § 520:
Determine whether residents' records in temporary care facilities licensed by the Department of Social Services include a court order or a written placement agreement. If the resident has been at the facility for less than eight hours and there is no court order or signed placement agreement, verify the facility's efforts to contact the legal guardian to obtain verbal approval for placement. If the resident has been at the facility for more than eight but less than 24 hours and there is no court order or signed placement agreement, review documentation that the legal guardian has been contacted and has given verbal approval for placement.

22 VAC 42-10-530. Admission Procedures.

Intent of § 530): These sections require that there be an admissions process that assures the facility admits only those children whose needs and characteristics are compatible with the facility's programs and services. The services provided by a facility must be compatible with the needs of the children it serves.

A. The facility shall have written criteria for admission which shall include:

1. A description of the population to be served;
2. A description of the types of services offered; and
3. Intake and admission procedures.

B. The facility's criteria for admission shall be accessible to prospective residents, legal guardians, and placing agencies.

Interpretation for § 530.B: Information concerning a facility's admissions criteria must be accessible to, but not necessarily distributed to, the listed parties.

C. The facility shall accept and serve only those children whose needs are compatible with the services provided through the facility unless a child's admission is ordered by a court of competent jurisdiction.

D. Acceptance of a child as eligible for respite care by a facility approved to provide residential respite care is considered admission to the facility. Each individual period of respite care is not considered a separate admission.

Interpretation of § 530.D: Admission and discharge procedures in some facilities (e.g. training centers operated by DMHMRSAS) require admission and discharge for each stay at the facility. Implementation of the facility's procedures would also comply with this requirement.

Compliance Determination for § 530:

1. *Review a copy of the written criteria for admission.*
2. *Verify that the written criteria include all of the required elements.*
3. *Ask staff how the written criteria are made accessible.*
4. *Review screening procedures to verify the needs of children admitted.*
5. *Ask staff to describe the services provided by the facility.*
6. *Ask staff what verbal or written arrangements the facility has established with agencies, professionals or organizations in the community to provide services to children.*
7. *Ask staff and residents, or review residents' records, to verify that services in the community are occurring.*
8. *Review information in residents' records (including reports of serious incidents, accidents or injury) and verify the facility has admitted only children whose needs are compatible with the programs and services provided through the facility.*

22 VAC 42-10-540. Maintenance of Residents' Records.

Intent of § 540: These requirements provide a means of keeping important information on each resident in a manner that protects confidentiality and permits easy access when needed. A resident's record is a vital tool used to determine the needs of the resident and to assess the resident's progress.

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

Interpretation § 540.A: A separate case record means that the information for an individual resident must be kept separately from information on all other residents. Sections of individual records such as allegations of child abuse, medical and educational information, etc. may be retained in separate locations on the premises provided they are kept individually, confidentiality is protected and the location of the information is noted in the master record.

Compliance Determination for § 540.A:
It may be advisable to compare the number of records with the number of residents enrolled or to compare the names on the records with a list of names of residents currently enrolled.

B. Each case record shall be kept up to date and in a uniform manner.

Intent of § 540.B-E: *These standards are designed to ensure that the privacy of the residents is protected, and that unauthorized people are not able to read the records. Records of the residents may well contain sensitive medical, psychiatric, psychological, and personal information which might be detrimental if released to people who are not legally authorized to obtain this information. There may be instances in which certain information should not be released to the resident or to his family.*

C. The facility shall make information available only to persons/organizations legally authorized to have access to the information under federal and state laws.

D. The facility shall have and implement written policies and procedures to protect the confidentiality of records. The policy shall address acquiring information, access, duplication, and dissemination of any portion of the records. The policy shall specify what information is available to the resident.

Compliance Determination for § 540.D:

1. *Review written policies and procedures on confidentiality. These must specify what information is available to the resident.*

2. *Assess if the facility maintains and safeguards resident information in a manner which conforms to policy.*

E. Records shall be kept in areas which are accessible to authorized staff and protected from unauthorized access, fire, and flood.

Compliance Determination for § 540.E:

1. *Observe the areas in which records are kept to determine whether the records might be accessible to people other than authorized staff.*

2. *Talk with staff to determine how they ensure that only authorized staff have access to the records.*

1. When not in use written records shall be stored in a metal file cabinet or other metal compartment.

Compliance Determination for § 540.E.1:
Observe the file cabinets or compartments in which records are stored to determine whether they are made of steel or other fire-resistant metal and are completely enclosed.

2. Facility staff shall assure the confidentiality of the residents' records by placing them in a locked cabinet or drawer or in a locked room when the staff member is not present.

Interpretation of § 540.E.2: If records for current residents are used in a room with staff on duty, there shall be a means for the records to be locked when staff leave the room.

Compliance Determination for § 540.E.2:
Observe the locks on the file cabinets or compartments in which records are stored. Determine how records are secured when staff leave records without returning them to the file cabinet or other metal compartment.

F. All portions of each resident's written records shall be consolidated prior to the resident's discharge.

G. Written and automated records shall be retained in their entirety for a minimum of three years after the date of discharge unless otherwise specified by state or federal requirements.

Compliance Determination for § 540.F and G:
1. Review records of residents who have been discharged.

2. Review the dates of discharge of a sample of the records to verify the records are kept for a minimum of three years.

3. Ask the administrator what protections are in place to ensure access to automated records should the facility's automated system be upgraded.

H. The face sheet shall be retained permanently unless otherwise specified by state or federal requirements.

I. The facility shall have a written policy to provide for:
1. The preservation of records in the event the facility ceases operation;
2. Notifying the regulatory authority of the preservation plan; and
3. Retention of and access to automated records.

J. Facilities using automated records shall develop and implement procedures for backing up records.

22 VAC 42-10-550. Interstate Compact on the Placement of Children.

A. Documentation of the prior approval of the administrator of the Interstate Compact on the Placement of Children, Virginia Department of Social Services, shall be retained in the record of each resident admitted from outside Virginia. The requirements of this section shall not apply to a facility providing documentation that the administrator of the interstate compact has determined the facility is statutorily exempt from the compact's provisions.

B. No later than 10 days after discharge the resident's record shall contain documentation that the administrator of the Interstate Compact on the Placement of Children was notified of the discharge.

Interpretation of § 550: These sections apply to every facility except those which have been determined to be exempt from the compact as provided by the Code of Virginia. This determination is made by the Compact Administrator, Virginia Department of Social Services; written documentation that the facility is exempt from the compact is provided to the facility when such a determination is made.

These sections apply when a nonresident of Virginia is admitted. Prior approval from the administrator of the Interstate Compact on the Placement of Children is required for each admission, including emergency admissions, of a nonresident child except when nonresident children are placed:

1. *Under the provisions of the "Interstate Compact on Juveniles" (certain runaways and children on probation and parole who are being returned to home states); or*

2. *In a facility which is exempt from the compact as provided by § 63.1-219.2 of the Code of Virginia.*

Compliance Determination for § 550:

1. *Ask facility personnel whether there are currently children in care who are nonresidents of Virginia and whether any nonresident children have been in care since the last study of the facility.*

2. *Review residents' records to verify documentation of the prior approval of the compact administrator.*

3. *Review records of discharged, nonresident Virginians to verify notification to the compact administrator was placed in the discharged residents' records within 10 days of discharge.*

4. *Review written documentation that the facility is statutorily exempt from the interstate compact if the administrator states that the compact does not apply.*

5. *Contact the compact administrator for clarification if there is a question as to whether the facility is exempt from the provisions of the interstate compact.*

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

The facility shall:

1. Implement a written policy stating that residents will not be used as subjects of human research; or

2. Document approval, as required by the regulatory authorities, for each research project using residents as subjects of human research.

Interpretation of § 560: Each department has developed regulations regarding human research. It is the facility's responsibility to be familiar and in compliance with the requirements of its regulatory authority(ies).

Compliance Determination for § 560:

1. *Review the facility's written policy on human research.*

2. *Review documentation to ensure that each human research project has been appropriately approved.*

22 VAC 42-10-570. Emergency and Self-Admissions.

Facilities accepting emergency or self-admissions shall:

1. Have and implement written policies and procedures governing such admissions which shall include procedures to make and document prompt efforts to obtain (i) a written placement agreement signed by the legal guardian or (ii) the order of a court of competent jurisdiction;

2. Place in each resident's record the order of a court of competent jurisdiction, a written request for care, or documentation of an oral request for care; and

Interpretation of § 570: The content of written policies and procedures will vary among facilities and will be determined based on the type of program and services provided. In most instances, written policies and procedures should address obtaining the following information about the resident: (1) full name; (2) birth date; (3) gender; (4) racial/ethnic background; (5) last address; (6) names and addresses of persons or agencies to contact in case of an emergency; (7) social security number; (8) health status including: (a) statements of known and obvious illnesses, handicapping conditions, medications currently being taken, general health status; and (b) name, address and telephone number of the resident's physician; and (9) a statement describing the resident's need for immediate care.

Compliance Determination for § 570:

1. *Review written policy and procedures governing emergency and self admissions.*

2. *Review residents' records to verify the facility complies with its policies and procedures.*

3. *Review residents' records to verify the facility has obtained the order of a court of competent jurisdiction, a written request for care, or documentation of an oral request for care.*

4. *Review residents' records to verify there is a written placement agreement or copy of a court order. If an agreement or order is not in the record, review the written documentation and verify the facility's efforts to obtain an agreement or court order have been adequate.*

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

A. Admission, other than an emergency or diagnostic admission, shall be based on evaluation of an application for admission. The requirements of this section do not apply to (i) temporary care facilities, (ii) court ordered placements, or (iii) transfer of a resident between residential facilities located in Virginia and operated by the same sponsor.

Interpretation of § 580.A: "Diagnostic admission" means admitting a child on a short-term basis to evaluate the child's needs. The diagnosis will normally result in referral to another residential facility, community resource, another program in the same facility, etc. A "diagnostic admission" is not intended to be a tentative admission to determine whether placement at the facility is appropriate.

B. Facilities accepting routine admissions shall develop, and fully complete prior to acceptance for care, an application for admission which is designed to compile information necessary to determine:

1. The physical needs of the prospective resident;
2. The educational needs of the prospective resident;
3. The mental health, emotional and psychological needs of the prospective resident;
4. The physical health needs of the prospective resident;
5. The protection needs of the prospective resident;
6. The suitability of the prospective resident's admission;
7. Whether the prospective resident's admission would pose any significant risk to (i) the prospective resident or (ii) the facility's residents or staff; and
8. Information necessary to develop a service plan.

C. The resident's record shall contain a completed application for admission at the time of a routine admission or within 30 days after an emergency admission.

Interpretation of § 580.C: "Application for admission" means the information needed to make an informed admission decision. Application for admission means the application form and all the required attachments.

The information a facility will need to obtain and evaluate in order to make an informed admission decision will vary among facilities and will be determined based on the type of programs and services provided.

Compliance Determination for § 580:
1. Interview staff and review residents' records to verify acceptance for care was based on the application for admission.

2. Review residents' records to verify that each contains the application for admission which contains the required elements.

3. Review residents' records to verify all information was in the record within the required time frames.

4. If information is not available, the reason(s) should be documented. Verify that the reason was valid.

22 VAC 42-10-590. Preplacement Activities Documentation.

At the time of each routine admission, the facility shall document:

1. A preplacement visit by the resident accompanied by a family member, agency representative or other responsible adult;

2. Preparation through sharing information with the family or placing agency and with the resident about the facility, the staff, the population served, activities and criteria for admission; and

3. Written confirmation of the admission decision to the legal guardian and to the placing agency.

Interpretation § 590: Placement of the child immediately following a preplacement visit is acceptable if there is adequate documentation of preplacement preparation as outlined in § 590.

Compliance Determination for § 590: Review residents' records to verify documentation of preplacement visits, preparation and written confirmation of the admission decision.

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

Interpretation of § 600: The Code of Virginia specifies the individuals/entities having the legal right to execute a placement agreement. There must be a placement agreement unless placement is ordered by a court of competent jurisdiction. To be legally binding, the agreement must be signed by the facility's representative and the individual or entity having the right to make the placement. Individuals/entities having the authority to make placements include: parents; legal guardians; local boards of social services/public welfare; designated agents of the Department of Juvenile Justice, and licensed child placing agencies.

A. The facility, except a facility which accepts admission only upon receipt of the order of a court of competent jurisdiction, shall develop a written placement agreement which:

1. Authorizes the resident's placement;

2. Addresses acquisition of and consent for any medical treatment needed by the resident;

3. Addresses the rights and responsibilities of each party involved;

4. Addresses financial responsibility for the placement;

5. Addresses resident absences from the facility; and

6. Addresses visitation with the resident.

B. Each resident's record shall contain, prior to a routine admission, a completed placement agreement signed by the legal guardian or placing agency, except as permitted for temporary emergency shelters pursuant to § 63.1-204 of the *Code of Virginia*.

C. The record of each person admitted based on a court order shall contain a copy of the court order.

Compliance Determination for § 600:

1. *Review residents' records to verify that each contains a valid written placement agreement unless the resident was admitted by a court order.*

2. *Review records of children placed by written agreement for documentation of the legal authority of the person signing the agreement. This documentation may be a statement signed by the person placing the child, a court order or a notation in the record that a staff person verified the legal authority.*

3. *Review residents' records to verify that the written agreements contain the required elements.*

22 VAC 42-10-610. Face Sheet.

A. At the time of admission, each resident's record shall include a completed face sheet which contains (i) the resident's full name, last known residence, birth date, birthplace, gender, race, social security number, religious preference, and admission date; and (ii) names, addresses, and telephone numbers of the resident's legal guardians, placing agency, and emergency contacts.

B. Missing information shall be obtained promptly and information shall be updated when changes occur.

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

Interpretation of § 610.C: It is recommended that facilities cross reference the infant's record on the mother's face sheet.

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

Interpretation of § 610.D: A separate record needs to be maintained for infants.

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

1. Date of discharge;

2. Reason for discharge;

3. Names and addresses of persons to whom the resident was discharged; and

4. Forwarding address of the resident, if known.

Compliance Determination for § 610:

1. *Review residents' records to verify that each contains a face sheet which includes the required elements.*

2. *Review residents' records to verify that the face sheet was fully completed at the time of admission.*

3. *If information is missing, evaluate the facility's documented efforts to obtain promptly the information. Verify that the efforts were adequate.*

4. *Verify that the face sheet contains current information.*

5. *When reviewing discharge records verify that required discharge information has been added to the face sheet.*

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

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

22 VAC 42-10-630. Service Plan.

Intent of § 630: Neither the facility's program description nor the evaluation of a resident at admission are sufficient to serve as a resident's service plan. Development of an individualized service plan containing goals and objectives and projected time frames is critical. To assure continuity following discharge, it is imperative that the resident, family, legal guardian, facility staff, and the placing agency participate in the development of the service plan. A service plan may also serve as a tool for measuring the facility's performance in meeting the specific needs of the resident.

A. An individualized service plan shall be developed and placed in the resident's record within 30 days following admission and implemented immediately thereafter.

B. Individualized service plans shall describe the:

1. Strengths and needs of the resident;
2. Resident's current level of functioning;
3. Goals, objectives and strategies established for the resident;
4. Projected family involvement;
5. Projected date for accomplishing each objective; and
6. Status of discharge planning except that this requirement shall not apply to a facility which discharges only upon receipt of the order of a court of competent jurisdiction.

Interpretation of § 630.B.4: Projected family involvement addresses the family's anticipated participation in implementing the strategies to accomplish the goals identified in the service plan.

Interpretation of § 630.B.6: Discharge planning is a continuing process beginning at admission and extending throughout placement. Discharge planning also includes an assessment of the resident's needs after discharge and development of a recommended plan of services to meet those needs.

C. Each plan shall be updated quarterly, or more frequently if necessary, and shall report the:

1. Resident's progress toward meeting the plan's objectives;
2. Family's involvement;
3. Continuing needs of the resident;
4. Resident's progress towards discharge;
5. Status of discharge planning; and
6. Revisions, if any, to the plan.

D. Each plan and update shall include the date it was developed and the signature of the person who developed it.

E. Staff responsible for daily implementation of the resident's individualized service plan shall be able to describe the resident's behavior in terms of the objectives in the plan.

F. The following parties shall participate, unless clearly inappropriate, in developing the individualized service plan and in updating the plan quarterly, or more frequently, if necessary:

1. The resident;
2. The resident's family, legal guardian, or legally authorized representative;
3. The placing agency; and

4. Facility staff.

Interpretation of § 630.F: There are occasions when family participation is inappropriate (e.g. when parental rights have been terminated by order of a court of competent jurisdiction).

Some facilities are subject to other regulations (e.g. medicaid) which require more frequent service plan reviews. These facilities comply with this section provided reviews occur at least quarterly.

Participation means the required parties shall be invited to provide input to the service plan and quarterly reports. Participation includes personal visits, meetings, phone calls, or written correspondence.

Service plan review is not required for any resident who is discharged in less than 90 days.

G. The initial individualized service plan, each update, and all other revisions shall be distributed to the parties who participated in development of the plan. Documentation of distribution shall be included in the resident's record.

H. The requirements of this section do not apply to secure detention facilities except when a juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice.

Compliance Determination for § 630:

1. *Review residents' records to verify that individualized service plans and quarterly reviews, which include the required elements, were developed and placed in the residents' records within the required time frames.*

2. *Interview child care staff and other staff responsible for daily implementation of service plans to verify they can describe residents' behavior in relation to objectives listed in the service plans.*

3. *Review the residents' records to verify participation of involvement of appropriate parties.*

22 VAC 42-10-640. Resident Transfer Between Residential Facilities Located in Virginia and Operated by the Same Sponsor.

A. Except when transfer is ordered by a court of competent jurisdiction, the receiving facility shall document at the time of transfer:

1. Preparation through sharing information with the resident, the family and the placing agency about the facility, the staff, the population served, activities and criteria for admission;

2. Written confirmation of the admission decision to the legal guardian and to the placing agency;

3. Receipt from the sending facility of a written summary of the resident's progress while at the facility and the resident's current strengths and needs; and

4. Receipt of the resident's record.

B. The sending facility shall retain a copy of the face sheet and a written summary of the child's progress while at the facility and shall document the date of transfer.

Interpretation of § 640: Facilities operated by the same sponsor are exempted from completing the application process when a resident is transferred from one facility to another. The written placement agreement (§ 600), face sheet (§ 610), and individualized service plan (§ 630) should be assessed by the receiving facility at the time of transfer. Updating the documents, or completing new documents, is required only to the extent necessary to assure the information is complete, accurate, and current.

When a resident is transferred from a temporary care facility to a long-term care facility, his record may not contain all the information needed to develop a service plan to address the resident's long-term needs. The facility is expected to gather the information needed to: (1) determine the physical, educational, emotional, health, and protection needs of the resident; (2) determine the suitability of the resident's admission; (3) assess any significant risk to the resident, the facility's residents, or the facility's staff; and (4) develop a service plan.

22 VAC 42-10-650. Discharge.

Intent of § 650: The facility; resident; and resident's parent, legal guardian, and placing agency must plan for the resident's discharge. Planning for discharge begins at admission and remains important during placement. In order to assure a successful transition from one program to another or to community life, it is important that the resident be provided with support and continuity. Failure to provide this may negate or reverse any benefits derived by the resident from participation in the program.

A. The facility shall have written criteria for discharge that shall include:

1. Criteria for a resident's completing the program which are consistent with the facility's programs and services;

2. Conditions under which a resident may be discharged before completing the program; and

3. Procedures for assisting placing agencies in placing the residents should the facility cease operation.

B. The facility's criteria for discharge shall be accessible to prospective residents, legal guardians, and placing agencies.

C. The record of each resident discharged upon receipt of the order of a court of competent jurisdiction shall contain a copy of the court order.

Interpretation of § 650.C: When discharge is in response to a verbal court order, the facility must: (a) document receipt of the verbal order, and (b) document efforts to obtain a written copy of the order. To comply with this section, the facility must: (a) obtain a copy of the court order, or (b) document continuing efforts to obtain a copy (a single request is not sufficient). A court order is any legal document which authorizes the resident's release and which is signed by a judge, clerk of the court, or a legally authorized designee. Acceptable documents include, but are not necessarily limited to: detention orders, release forms, admission forms, shelter care orders, and transportation orders.

D. Residents shall be discharged only to the legal guardian or legally authorized representative.

E. A facility approved to provide residential respite care shall discharge a resident when the legal guardian no longer intends to use the facility's services.

F. Information concerning current medications, need for continuing therapeutic interventions, educational status, and other items important to the resident's continuing care shall be made available to or provided to the legal guardian or legally authorized representative.

G. Unless discharge is ordered by a court of competent jurisdiction, prior to the planned discharge date each resident's record shall contain:

1. Documentation that discharge has been planned and discussed with the parent, legal guardian, child placing agency, and resident; and

2. A written discharge plan.

Interpretation of § 650.G: Discharge planning is an important element of the facility's service plan (see § 630.B.6). The facility may incorporate the discharge plan into the resident's service plan or may prepare a separate discharge plan.

In most instances, a discharge plan will include statements identifying: (1) the name of the person or agency to whom discharge is anticipated; (2) the resident's projected needs following discharge; (3) the proposed plan to meet the projected needs; and (4) the individuals responsible for implementing the discharge plan.

H. Discharge summaries.

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

a. Services provided to the resident;

b. The resident's progress toward meeting service plan objectives;

c. The resident's continuing needs and recommendations, if any, for further services and care;

d. Reasons for discharge and names of persons to whom resident was discharged;

e. Dates of admission and discharge; and

f. Date the discharge summary was prepared and the signature of the person preparing it.

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

Compliance Determination for § 650:

1. *Review a copy of the written criteria for termination of care and verify that it includes all required elements.*

2. *Ask the administrator how the criteria are made accessible.*

3. *Review a sample of records for residents discharged from the facility during the current licensure/certification period and verify documentation is present as required by the standards.*

4. *Review discharge summaries in residents' records to verify that residents were discharged to the legally responsible parties.*

5. *Ask staff the policy and procedures for discharge.*

6. *Ask staff how and what information is made available to the legal guardian or legally authorized representative.*

7. *For respite care facilities, verify that residents are discharged when the legal guardians no longer intend to use the facility's services.*

8. *Review face sheets to determine if requirements of § 610.E have been met.*

22 VAC 42-10-660. Placement of Residents Outside the Facility.

A resident shall not be placed outside the facility prior to the facility's obtaining a child-placing agency license from the Department of Social Services except as permitted by statute or by order of a court of competent jurisdiction.

22 VAC 42-10-670. Social Services.

Intent of § 670: While some children found in residential placements are characterized as having few serious problems, the very nature of a residential placement requires that every resident have the benefit of basic social services. The fact that a child has been physically and emotionally separated from his past living environment requires that help and support be available during the transition. Maintaining the interest and involvement of family and other important people in the resident's life demands the assistance of a person who is readily available with time to devote to the encouragement of such ties. The structure and demands of group living can be new and difficult for a child, and accessible adult counseling is important for

discussion of problems and for help in relation to others. Therefore, every residential program needs to make social services available.

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

1. Helping the resident and the parents or legal guardian to understand the effects on the resident of separation from the family and the effect of group living;

2. Assisting the resident and the family to maintain their relationships and prepare for the resident's future care;

3. Utilizing appropriate community resources to provide services and maintain contacts with such resources;

4. Helping the resident strengthen his capacity to function productively in interpersonal relationships;

5. Conferring with the child care staff to help them understand the resident's needs in order to promote adjustment to group living; and

6. Working with the resident and with the family or any placing agency that may be involved in planning for the resident's future and in preparing the resident for the return home or to another family, for independent living, or for other residential care.

B. The provision of social services shall be documented in each resident's record.

C. Social services consistent with the goals of the service plan shall be provided to meet the specific needs of each resident, except residents of secure detention facilities who are not confined with a suspended commitment to the Department of Juvenile Justice, in one of the following ways:

1. By or under the direct supervision of a staff member who (i) holds a bachelor's degree in psychology, counseling, social work, or other discipline specifically approved by the regulatory authority and (ii) has completed two years of successful experience in psychology, counseling, social work, or other field specifically approved by the regulatory authority (In lieu of two years experience, the person may work under the direct supervision of a qualified supervisor for a period of two years.);

2. By service staff of the agency that placed the resident provided such staff is available on an as needed basis rather than on a limited basis (e.g. quarterly or semi-annually);

3. On a contract basis by a professional licensed to practice in the Commonwealth of Virginia, other state or the District of Columbia; or

4. On a contract basis by a professional child and family service worker who is working under the auspices of a public or private, nonprofit agency sponsored by a community-based group.

Interpretation of § 670: *These sections apply to respite care programs. Social services may be defined in terms of guidance in daily living skills and tasks associated with the acquisition of these skills.*

Compliance Determination for § 670:

1. *Review any written information describing how the program of the facility is designed to provide for the social services needs of the residents.*

2. *Review residents' records to observe documentation of the provision of social services.*

3. *Review residents' records and other documents to determine how and by whom social services are provided. Other documents such as schedules or calendars maintained for a resident or group of residents may indicate scheduling of time for counseling sessions, group sessions, meetings with community resource agencies, institutional staff, and parents/legal guardians of the residents. Monthly billing information may reflect time spent and services provided by consultants.*

4. *Child care staff may be interviewed and asked whether residents receive the social services listed and whether child care staff receive assistance from social workers.*

5. *Persons providing social services, whether facility staff or contractors, may be interviewed and asked how services are delivered.*

6. *Ask the administrator who provides social services. Review personnel information in personnel records or on staff sheets, if applicable, to see that the qualifications of staff meet the requirements of the standard.*

7. *Ask the administrator how the facility ensures that persons providing social services are qualified to do so.*

8. *Ask the administrator how persons providing social services schedule their time to assure that residents' needs are met.*

9. *Ask residents who provides social services.*

22 VAC 42-10-680. Therapy.

Therapy, if provided, shall be provided by an individual (i) licensed as a therapist by the Department of Health Professions or (ii) who is licensure eligible and working under the supervision of a licensed therapist, unless exempted from these requirements under the *Code of Virginia*.

22 VAC 42-10-690. Structured Program of Care.

A. There shall be evidence of a structured program of care designed to:
1. Meet the residents' physical and emotional needs;
2. Provide protection, guidance and supervision; and
3. Meet the objectives of any required service plan.

Interpretation of § 690.A: A structured program of care refers to the daily program of the facility. The daily program should evidence a definite pattern upon which the resident can rely. To adequately implement elements listed in this standard, staff supervision of the resident and support for the program are essential. Since each child care worker may implement the daily program differently, it is important to gather information about it in the living units and activity areas and not just from administrators.

B. There shall be evidence of a structured daily routine designed to ensure the delivery of program services.

Compliance Determination for § 690.A and B:

1. Determine whether there is a structured program of care implemented at the facility by the following

- *Review any posted daily schedules found in living units and elsewhere.*
- *Ask child care staff and other staff to describe the daily program of the residents.*
- *Ask residents to describe what they do each day.*
- *During discussions of services and program components covered in other areas of the standards note whether there is evidence that the residents are supported by and relate to program activities.*

2. Determine whether the structured program of care provides the elements in this standard by the following:

- *In discussions with a resident's care staff, observe whether the daily program is designed to meet the objectives of the resident's service plan.*
- *When reviewing emergency reports of incidents, accidents or injury note whether adequate protection, guidance and supervision were lacking in the program of care.*
- *In interviewing residents, determine whether they feel secure and adequately protected (supervised) in every aspect of their daily activities, both on and off the premises.*

- *Observe whether daily experiences allow for staff time and attention to meet the physical needs of the residents.*

- *Review the reasons for discharges to determine if any of the reasons indicate a deficiency in any of the elements cited in this standard.*

- *When reviewing residents' medical reports where a need for follow-up care is indicated, ask the child care worker how this is done.*

C. A daily activity log shall be maintained to inform staff of significant happenings or problems experienced by residents.

D. Health and dental complaints and injuries shall be recorded and shall include the (i) resident's name, complaint, and affected area and (ii) time of the complaint.

E. The identity of the individual making each entry in the daily activity log shall be recorded.

Intent of § 690 C-E: The intent of these requirements is to assure the recording of significant problems or events in the lives of residents so as to alert relief staff and to provide continuity.

Compliance Determination for § 690.C-E:

1. *Review daily activity log.*

2. *Determine whether the log is used to record significant happenings or problems, including health and dental complaints and injuries, that should be brought to the attention of staff.*

3. *Determine whether entries are dated and that the person making the entry is identified.*

F. Routines shall be planned to ensure that each resident receives the amount of sleep and rest appropriate for his age and physical condition.

G. Staff shall promote good personal hygiene of residents by monitoring and supervising hygiene practices each day and by providing instruction when needed.

Compliance Determination for § 690. F and G:

1. *Determine whether time is scheduled for sleep and rest.*

2. *Ask child care workers how the amount of sleep and rest for residents is determined according to age and physical condition.*

3. Ask what difficulties are encountered around sleep and rest periods and with what frequency; observe whether these difficulties prohibit the assurance of adequate sleep and rest as a general rule.

4. Ask residents if they get adequate sleep and rest.

5. Ask child care staff what time periods during the daily schedule allow them to supervise grooming and physical cleanliness.

6. Ask child care staff how they supervise grooming and physical cleanliness.

7. Observe whether the residents appear to be clean, well-groomed and appropriately dressed for various activities, the season, and the time of day.

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

Intent of § 700: Medical information is important to assessing the appropriateness of admission and must be accessible to persons responsible for the residents' care. Both initial and ongoing medical care are necessary because many residents come from environments where their health and medical needs were not met. The facility is the primary provider of care and it must have adequate procedures for meeting health needs, including ongoing checkups and care, medical emergencies, and distribution of medications.

A. The facility shall have and implement written procedures for promptly:

1. Providing or arranging for the provision of medical and dental services for health problems identified at admission;

2. Providing or arranging for the provision of routine ongoing and follow-up medical and dental services after admission;

3. Providing emergency services for each resident as provided by statute or by the agreement with the resident's legal guardian; and

4. Providing emergency services for any resident experiencing or showing signs of suicidal or homicidal thoughts, symptoms of mood or thought disorders, or other mental health problems.

B. The following written information concerning each resident shall be readily accessible to staff who may have to respond to a medical or dental emergency:

1. Name, address, and telephone number of the physician and dentist to be notified;

2. Name, address, and telephone number of a relative or other person to be notified;

3. Medical insurance company name and policy number or Medicaid number;

4. Information concerning:

a. Use of medication;

b. Medication allergies;

c. Substance abuse; and
d. Significant past or present medical problems;

Interpretation of § 700.B.4.d: In order to respond appropriately to medical and dental emergencies significant past AND present medical problems should be listed.

5. Written permission for emergency medical care, dental care, and obtaining immunizations or a procedure and contacts for obtaining consent; and

6. Subsections 3 and 5 do not apply to secure detention facilities except when a resident is confined in detention with a suspended commitment to the Department of Juvenile Justice.

C. Facilities approved to provide respite care shall update the information required by subsection B of this section at the time of each stay at the facility.

Compliance Determination for § 700:

1. *Review the written procedures for medical, dental and emergency services.*
2. *Ask the administrator how staff are informed about these procedures.*
3. *Ask child care staff how they were oriented to the procedures.*
4. *Ask child care staff how residents are provided medical and dental services in a prompt manner.*
5. *Review medical documentation in resident's records to verify that existing procedures assure that medical services are provided promptly.*
6. *Review written information to verify the required items are present.*
7. *Ask the administrator to explain how he makes the required information available to staff responsible for supervising children.*
8. *Ask child care staff whether the information to respond to a dental or medical emergency is accessible to them and how it is made accessible.*

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

Intent of § 710: The intent of § 710 is to (1) determine whether there are any medical concerns which may make the child's admission inappropriate; (2) ensure that children who are admitted have their physical needs identified, monitored, and met; and (3) provide a system of record-keeping and accountability to ensure that residents are free from communicable diseases.

A. Each child accepted for care shall have a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to

admission to the facility or no later than seven days following admission except (i) the report of an examination within the preceding 12 months shall be acceptable if a child transfers from one residential facility licensed or certified by a state agency to another, (ii) a physical examination shall be conducted within 30 days following an emergency admission if a report of physical examination is not available, and (iii) this requirement does not apply if a child is admitted to a secure detention facility or to a temporary care facility.

B. Each resident's record shall include written documentation of (i) the initial physical examination, (ii) an annual physical examination by a licensed physician including any recommendation for follow up care, and (iii) documentation of the provision of follow-up medical care recommended by the physician or as indicated by the needs of the resident.

C. Each physical examination report shall include:

1. Information necessary to determine the health and immunization needs of the resident, including:

a. Immunizations administered;

b. Vision exam;

c. Hearing exam;

d. General physical condition, including documentation of apparent freedom from communicable disease including tuberculosis;

e. Allergies, chronic conditions, and handicaps, if any;

f. Nutritional requirements, including special diets, if any;

g. Restrictions on physical activities, if any; and

h. Recommendations for further treatment, immunizations, and other examinations indicated;

2. Date of the physical examination; and

3. Signature of a licensed physician, the physician's designee, or an official of a local health department.

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

1. The facility is capable of providing care to the child without jeopardizing residents and staff; and

2. The facility is aware of the required treatment for the child and the procedures to protect residents and staff.

The requirements of this subsection shall not apply to temporary shelters and secure detention facilities.

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

F. Each resident's record shall include notations of health and dental complaints and injuries and shall summarize symptoms and treatment given.

G. Each resident's record shall include, or document the facility's efforts to obtain, treatment summaries of ongoing psychiatric or other mental health treatment and reports, if applicable. This subsection does not apply to secure detention facilities except when a juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice.

Compliance Determination for § 710.A-G:

1. *Review residents' records to verify the required reports contain the required information.*
2. *Review each report of medical examination and compare its date with that of the resident's admission.*
3. *Review each medical examination report for the signature of a licensed physician or his designee.*
4. *Review for follow-up physical and dental care as indicated.*
5. *Review residents' records to verify notations of physical and dental health complaints, injuries, or treatment were made.*
6. *Review residents' records to verify current psychiatric and ongoing mental health treatment reports, if applicable.*

H. Written policies and procedures, which include use of universal precautions, shall be developed and implemented to address communicable and contagious medical conditions.

Interpretation of § 710.H: Examples of communicable and contagious medical conditions would include, but not be limited to, measles, mumps, chicken pox, lice, tuberculosis, ringworm, Hepatitis, and HIV infection. Each facility is encouraged to call their local health department for consultation when developing these policies. The facility may also want to contact the Virginia Department of Labor and Industry - Division of Occupational Safety and Health to ensure they are meeting Federal Regulations regarding universal precautions.

I. A well stocked first-aid kit shall be maintained and readily accessible for minor injuries and medical emergencies.

Interpretation of § 710.I: Adequate, well-stocked first aid kits are commercially available for purchase at retail stores. They should be restocked as needed. A well-stocked first aid kit might include assorted bandaids, gauze, bandages, tape, safety pins, scissors, tweezers, first aid ointment, and antiseptics for minor wounds not requiring doctor's care. A first aid kit shall be readily accessible to each living unit on campus. A kit is required when residents are on

excursions; the excursion site becomes the "living unit." First aid kits should also be kept in vehicles used to transport residents.

Compliance Determination for § 710.I:

1. *Verify the presence of a first-aid kit stocked for minor injuries and medical emergencies.*

2. *Ask staff if a first-aid kit is readily accessible and whether adequate supplies are available to take care of the typical injuries and medical emergencies of the residents.*

3. *Ask residents how they receive care for minor injuries and medical emergencies.*

22 VAC 42-10-720. Medication.

A. All medication shall be securely locked and properly labeled.

Interpretation of § 720.A: Both prescribed and nonprescribed medications must be locked and properly labeled. Vitamins and supplements are considered a medication and should be locked.

Controlled substances may require additional precautions. Facilities should ask the pharmacist if medication is a controlled substance. If the medication is a controlled substance ask what additional safeguards should be taken.

B. All staff responsible for medication administration shall have successfully completed a medication training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medications.

Interpretation of § 720.B: Facilities should call their regulators for information on the medication training program.

C. Medication shall be administered only by staff authorized to do so by the director.

D. Staff authorized to administer medication shall be informed of any known side effects of the medication and the symptoms of the effects.

Interpretation of § 720: "Administered" refers to the distribution to the residents of both prescribed and non-prescribed medication by staff authorized by the director. These persons shall be knowledgeable of the side effects and symptoms caused by any of the medications they distribute and shall be responsible for assuring that label directions for both prescription and nonprescription medications are followed. The facility is accountable for ensuring that staff delivering medications know the side effects of the medications and symptoms of the effects. This is applicable for both prescription and nonprescription drugs. Access to a current Physician's Desk Reference or similar resource may be useful. Pharmacies provide a list of side effects of medications when prescriptions are filled. Nonprescription drug side effects are

usually provided on the box the medication comes in or in the information included with the medication.

E. A program of medication shall be initiated for a resident only when prescribed in writing by a licensed physician.

Interpretation of § 720.E: A "program of medication" is the scheduled distribution of any medicine, that may be prescribed for a resident. The pharmacy prescription label showing the name of the resident, the name of the physician and the instructions for dosage may be sufficient evidence to determine compliance with this standard for a prescribed medication. Whenever over-the-counter medication is administered, it shall be under the direct or standing orders of a licensed physician.

F. Medication prescribed by a licensed physician shall be administered as prescribed.

G. A daily log shall be maintained of all medicines received by each resident and shall identify the individual who administered the medication.

Interpretation of § 720.G: The log must record both prescribed and nonprescribed medicines received by each resident.

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

Interpretation of § 720.H: The attending physician is the physician who has prescribed the medication or the physician that is responsible for providing medical care to the resident.

Medication errors include but are not limited to, situations where: the wrong dosage was administered; the wrong medication was administered; the medication was administered by the wrong method; the wrong child was administered medication; and medication was administered late or a dosage missed when the time of administration has been identified as critical to the maintenance of a therapeutic level. Medication errors should be documented in the resident's record.

Standing orders refer to the documented order of the physician prescribing the medication that indicates how the medication is to be administered and the actions to take if there is a medication error or an adverse reaction to the medication. If there is no standing order from the physician pertaining to the specific medication, the attending physician shall be notified as soon as possible. It is recommended that standing orders be filed in the resident's record when the medication is no longer in use.

I. The telephone number of a regional poison control center shall be posted on or next to each nonpay telephone that has access to an outside line in each building in which children sleep or participate in programs.

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

Interpretation of § 720.J: A one-ounce bottle is equivalent to 30 cc.

K. Syringes and other medical implements used for injecting or cutting skin shall be locked.

Compliance Determination for § 720:

1. *Ask staff how they assure that all medications are securely locked and labeled (prescription and nonprescription).*

2. *Observe the storage area for medications to verify that it is securely locked.*

3. *Observe the medications to verify that they are properly labeled.*

4. *Ask the administrator who is authorized and who has received training to distribute medication and how that information is disseminated to all staff. Ask residents how they receive medication and from whom. Ask for documentation that the medication training instructor is certified to provide training.*

5. *Ask child care staff what system is used for the distribution of medication.*

6. *Ask staff authorized to distribute medication for information on side effects and symptoms of some of the medication.*

7. *Ask staff how and when nonprescribed medications are used.*

8. *Review residents' medical records to determine whether any program of prescribed or nonprescribed medication has been distributed without a physician's orders.*

9. *Review these medications to verify that they were obtained from a licensed pharmacist.*

10. *Review the daily log for distribution of all medication (prescription and nonprescription). Note whether the log indicates all medication received by each resident. Daily logs may be kept in a wide variety of ways (notebook, file, cards, etc.).*

11. *Review residents' records of "health and dental complaints" and for "reports of incidents, accidents or injury" to note any incidents of drug reactions or medication errors. If any, ask if the appropriate person was notified in each case.*

12. Verify that the telephone number of the Regional Poison Control Center is posted next to the nonpay telephone in each building in which children sleep or participate in a program.

13. Verify that one unexpired bottle of 30cc. (or its equivalent) Syrup of Ipecac and one unexpired container of activated charcoal are available for use at the direction of the poison control center or physician.

14. Ask child care staff what procedures would be followed for utilization of Syrup of Ipecac or activated charcoal in the event of a suspected poisoning.

22 VAC 42-10-730. Nutrition.

A. Each resident shall be provided a daily diet which (i) consists of at least three nutritionally balanced meals and an evening snack, (ii) includes an adequate variety and quantity of food for the age of the resident, and (iii) meets minimum nutritional requirements and the U.S. Dietary Guidelines.

Interpretation of § 730.A: In order to assure that the residents will receive an adequate, well-balanced diet, food served daily should be selected from each of the five major food groups:

- *Milk, yogurt, and cheese (2-3 servings)*
- *Meat, poultry, fish, dry beans, eggs, and nuts (2-3 servings)*
- *Vegetable (3-5 servings)*
- *Fruit (2-4 servings)*
- *Bread, cereal, rice, and pasta (6-11 servings)*

Use fats, oils ,and sweets sparingly.

After observations of meals, interviews with residents and discussions with staff, if questions arise regarding adequate food quantity, reviewers shall contact the local office of the Virginia Cooperative Extension Services for guidance, and such other sources as may be necessary to determine compliance.

Compliance Determination for § 730.A:

1. Review menus.

2. Observe food being served at mealtimes to verify that it corresponds with the menu.

3. Observe the food storage areas to verify that there is food on hand.

4. Evaluate meals served to see that they are nutritionally balanced. Observe if an adequate amount of food appears available.

5. Ask staff and residents how many meals are served each day. Ask residents if enough food is served at meals such that they do not stay hungry.

6. Review menus and observe meals served to determine if meals are planned with consideration for the five food groups.

B. Menus shall be kept on file for at least six months.

C. Special diets shall be provided when prescribed by a physician and the established religious dietary practices of the resident shall be observed.

D. Staff who eat in the presence of the residents shall be served the same meals as the residents unless a special diet has been prescribed by a physician for the staff or residents or the staff or residents are observing established religious dietary practices.

E. There shall not be more than 15 hours between the evening meal and breakfast the following day.

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

Interpretation of § 730.F It is not the intent of this standard that a full breakfast be served before the regularly scheduled breakfast. However, food such as fruit or cereal should be available.

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

Compliance Determination for § 730.C-G:

1. Ask the administrator how special diets are provided.

2. Observe from the records the names of residents on special diets and ask food service personnel how the diets are provided.

3. Ask whether there are residents with religious backgrounds requiring special diets and inquire how the facility provides for the special diet.

4. Ask if staff members eat with the residents and, if so, what foods they eat. Observe at mealtime for compliance determination.

5. Ask when meals are served. Review the program schedule to determine if more than fifteen hours exist between the evening meal and available breakfast and no more than 17 hours when the facility is operating on a weekend or holiday schedule.

6. Confirm that the facility has received approval from the regulatory authority if the time between the evening meal and breakfast is over 15 hours.

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

Intent of § 740.A: This section is intended to provide child care staff with a balance between facility responsibilities and off duty time for rest and relaxation. It is intended to provide staff with sufficient opportunity for rest and relaxation so they can be most effective when supervising children. This section is designed to prohibit the planned, intentional, or scheduled use of staff for more than the maximum number of days specified in § 740. Facilities are required to follow appropriate wage and labor laws. They may contact the Virginia Department of Labor and Industry with questions.

A. No member of the child care staff shall be on duty more than six consecutive days without a rest day except in an emergency.

B. Child care staff shall have an average of at least two rest days per week in any four-week period. Rest days shall be in addition to vacation time and holidays.

C. Child care staff other than live in staff shall not be on duty more than 16 consecutive hours except in an emergency.

Compliance Determination for § 740.A-C:

1. Analyze work schedules, time cards, leave records, training schedules, and other methods the facility uses for employee record keeping. Review of a work schedule requires evaluating it to verify compliance with the norm (§ 740.A). Verify that:

a. no member of the child care staff works more than the maximum number of consecutive days allowed by § 740.A without a rest day;

b. child care staff members have at least eight rest days in each four-week period in addition to time off for vacations and holidays.

c. child care staff members who work shifts (do not "live in") are not on duty for longer than 16 consecutive hours, unless an emergency emergency is documented.

2. Ask administrative personnel and employees about their individual work schedules, how work schedules are developed, and steps taken by the facility to assure compliance with these sections.

D. There shall be at least one trained child care worker on the premises, on duty and actively supervising children at all times that one or more children are present.

Compliance Determination for § 740.D:
Review administrative policies and staff schedule/logs to verify compliance. Ask staff and children about who remains at the facility when some of the residents are away from the facility and others remain at the facility.

E. Supervision Policies

1. The facility shall develop and implement written policies and procedures which address staff supervision of children.

2. Written policies and procedures governing supervision of children shall be reviewed and approved by the regulatory authority prior to implementation.

3. The supervision policies or a summary of the policies shall be provided, upon request, to the placing agency or legal guardian prior to placement.

Interpretation of § 740.E: Policies and Procedures governing the supervision of children involves the planned assignment, or stationing of staff responsible for supervising children. Deployment of staff should be planned, thought-out, and organized in advance.

A supervision plan must include how the facility plans to supervise residents both on and off campus. It must also include a master schedule describing the facility's assignment of staff to cover each post and assure compliance with the staff/child ratios established in § 740.F.

Policies and procedures governing supervision of children will be reviewed and approved by the regulatory authority prior to the issuance of a license/certificate to operate. Any proposed revisions to the policies and procedures governing the supervision of children during the duration of the license/certificate must be reviewed and approved by the regulatory authority prior to implementation.

Compliance Determination for § 740.E:

1. *Review the facility's supervision policies and procedures.*
2. *Verify the facility's implementation by comparing actual staff schedules with the master schedule.*
3. *Ask staff and children about the staff/child ratios and supervision during different types of on-campus and off-campus activities.*
4. *Observe staff/child ratios and placement of staff.*

F. During the hours that children are scheduled to be awake there shall be at least one child care staff member awake, on duty and responsible for supervision of every 10 children, or portion thereof, on the premises or participating in off-campus, facility-sponsored activities except:

1. Independent living programs shall have at least one child care staff member awake, on duty and responsible for supervision of every 15 children on the premises or participating in off campus, facility sponsored activities;

2. For children under four years of age, there shall be at least one child care staff member awake, on duty and responsible for supervision of every three children who are on the premises or participating in off-campus, facility-sponsored activities except that this requirement does not apply to severely multi-handicapped, nonambulatory children;

3. For severely multi-handicapped, nonambulatory children, there shall be at least one child care staff member awake, on duty and responsible for supervision of every six children;

4. Programs that accept mothers and their children shall have at least one child care staff member awake, on duty and responsible for supervision of every six children (counting both mothers and their children); and

5. Except when exempted by the regulatory authorities, programs that are licensed or certified by the Department of Mental Health, Mental Retardation and Substance Abuse Services to provide treatment services for children with diagnosed mental illness or diagnosed severe emotional or behavioral problems where close supervision is indicated shall have at least one child care staff member awake, on duty and responsible for supervision of every eight children.

Interpretation of § 740.F: Frequently, the same staff/child ratio will be required for all the children. In some instances, however, a group of children will include children from different groups (children under four years of age, severely multihandicapped children under four years of age, children four years of age and over, or children from an approved independent living program) for whom the staff child ratio is different. In such instances, the number of staff needed to supervise the children in a mixed group may be calculated using either of two methods:

1. the staff/child ratio for each portion of the group may be determined independently, or

2. the staff/child ratio for the children requiring the most staff (most restrictive ratio) may be applied to the entire mixed group.

G. During the hours that residents are scheduled to sleep there shall be no less than one child care staff member on duty and responsible for supervision of every 16 children, or portion thereof, on the premises, except for programs that accept mothers and their children, there shall be at least one child care staff member in the building, on duty and responsible for every 10 residents.

H. There shall be at least one child care staff member on duty and responsible for the supervision of residents in each building where residents are sleeping. When there are 16 or more residents in a building, the staff person shall remain awake, and the ratio of one staff person to every 16 residents or portion thereof shall be maintained. For less than 16 residents in the building, the staff

person may sleep but shall be on duty and responsible for supervision. This requirement does not apply to approved independent living programs.

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

Interpretation of § 740.G: This section does not require that every staff member on duty be awake. A staff member is required to be awake only in the circumstances enumerated in § 740.H.

The minimum number of staff needed to supervise the children at night is calculated by dividing the total number of children by 16. This section requires that staff members be awake and on duty in specific locations when 30 or more children are sleeping on a floor of a building. There must be one awake staff in every building where 16 or more children are sleeping. The facility administrator may exercise discretion in deploying the remaining staff members in accord with the facility's approved policies and procedures for the supervision of children.

Compliance Determination for § 740:

1. *Compute the required staffing ratios considering all of the variables cited in § 740.F. In determining ratios, child care staff may include staff members with other job titles and responsibilities only during the time the staff members are directly responsible for supervising children. All persons responsible for supervising must meet the qualifications for child care staff.*

2. *Review staff schedules and logs for on-campus and off-campus activities. Interview staff and residents to determine whether the required ratios are being maintained.*

3. *Observe staff to child ratios for on-campus activities. If off-campus activities occur during the visit to the facility, observe the staff to child ratios.*

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

A. Residents who are away from the facility and the adults responsible for their care during the absence shall be furnished with a telephone number where a responsible facility staff member or other responsible adult may be reached at all times. This subsection does not apply to residents of secure detention facilities.

B. When children are on the premises of the facility, the staff on duty shall be furnished with a telephone number where the administrator or his designee may be reached at all times.

Intent of § 750: This section is intended to provide staff and residents prompt access to a responsible adult should an emergency or other unexpected event occur.

Interpretation of § 750: *This section does not require that the telephone number of the responsible person be a facility site number. When a facility operates on a schedule of less than 12 months, it is not necessary for the telephone to be staffed during official periods of closure when the facility has no responsibility for child care. Section 750.A is applicable when staff and residents are on excursions.*

It is expected that the responsible adult be readily accessible to the emergency number. It is not sufficient for staff and residents to have a number of an adult who can not be reached at the number for a period of time. Use of a cellular phone, a beeper, or other device is permissible provided the operator remains within the established calling area for the device.

Compliance Determination for § 750:

1. *Confirm with the administrator, the staff, and the residents that a telephone number is provided to all residents and staff for use when away from the facility.*

2. *Confirm with the administrator and the staff that a telephone number is provided to all staff for use when children are on the premises of the facility. Obtain the telephone number for the person currently on call.*

22 VAC 42-10-760. Children's Privacy.

Children shall be provided privacy from routine sight supervision by staff members of the opposite gender while bathing, dressing, or conducting toileting activities. This section does not apply to medical personnel performing medical procedures, to staff providing assistance to infants, or to staff providing assistance to children whose physical or mental disabilities dictate the need for assistance with these activities as justified in the client's record.

Interpretation of § 760: *An infant means any child up to the age of four. Staff supervising children who are taking care of personal needs must be of the same gender as the children. In the event it is necessary for staff to supervise children of the opposite gender, the facility shall assure the children's privacy.*

Medical personnel are exempted from the requirement only while conducting medical procedures. In addition, staff providing care to infants are exempted.

It is necessary to document, in the child's record, occurrences when it is necessary for staff to provide assistance to children of the opposite gender whose physical or mental disabilities dictate the need for assistance.

Compliance Determination for § 760:

1. *Review staff schedules and logs to determine if members of the opposite gender were assigned bathroom duty and whether any same gender child care staff were on duty when tasks were performed.*

2. *Interview staff and residents to determine the actual practice.*

3. Review the records of children whose physical or mental disabilities dictated the need for assistance.

4. Observe the deployment of staff when children are bathing, dressing, or conducting toileting activities to verify that the residents' rights to privacy are being observed.

22 VAC 42-10-770. Searches.

A. Strip searches and body cavity searches are prohibited except:
1. As permitted by other applicable state regulations; or
2. As ordered by a court of competent jurisdiction.

B. A facility that does not conduct pat downs shall have a written policy prohibiting them.

C. A facility that conducts pat downs shall develop and implement written policies and procedures governing them which shall provide that:
1. Pat downs shall be limited to instances where they are necessary to prohibit contraband;
2. Pat downs shall be conducted only in accordance with the written policies and procedures;
3. Pat downs shall be conducted by personnel of the same gender as the client being searched;
4. Pat downs shall be conducted only by personnel who are specifically authorized to conduct searches by the written policies and procedures; and
5. Pat downs shall be conducted in such a way as to protect the subject's dignity and in the presence of one or more witnesses.

Intent of § 770: This section is intended to protect children from intrusive and unwarranted body searches.

Compliance Determination for § 770:

1. Review the facilities policies and procedures governing pat downs. Verify that staff and residents are familiar with the policy and circumstances, if any, when pat downs are permitted. Verify that the policy is being followed.

2. Verify that the policy adequately addresses each of the required elements.

3. Verify that strip and body cavity searches are not being conducted unless permitted by interdepartmental modules, other applicable state regulations, or by order of a court of competent jurisdiction. Verify that staff and residents are aware of the prohibition and the circumstances, if any, when strip searches or body cavity searches are permitted. Verify that the prohibition is being implemented.

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

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

Interpretation of § 780: See the definition of behavior management in § 10 for further information on what must be included in the policy and procedures. Assure that the policies and procedures address how staff will document and monitor the management of resident behavior. Also see the definition of rules of conduct in § 10.

B. Written information concerning management of resident behavior shall be provided prior to admission to prospective residents, except those with diagnosed mental disabilities resulting in the loss of the cognitive ability to understand the information, legal guardians, and referral agencies. For court ordered and emergency admissions, this information shall be provided to:

1. Residents, except those with diagnosed mental disabilities resulting in the loss of the cognitive ability to understand the information, within 12 hours following admission;

2. Referral agencies within 72 hours following the resident's admission; and

3. Legal guardians within 72 hours following the resident's admission except that this requirement does not apply:

a. To secure detention facilities except when a juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice;

b. When a facility is providing temporary care of 30 days or less while conducting a diagnostic evaluation to identify the most appropriate long-term placement for a child who has been committed to the Department of Juvenile Justice; and

c. When a state mental hospital is evaluating a child's treatment needs as provided by the *Code of Virginia*.

Interpretation of § 780.B: For court ordered and emergency admissions, it is not necessary that the referral agency and legal guardian receive the required information within 72 hours. To attain compliance, it is only necessary that the facility place the information in the mail.

C. When substantive revisions are made to policies governing management of resident behavior, written information concerning the revisions shall be provided to:

1. Residents prior to implementation, except for those residents with diagnosed mental disabilities resulting in the loss of the cognitive ability to understand the information; and

2. Legal guardians and referral agencies except that this requirement does not apply:

a. To secure detention facilities;

b. When a facility is providing temporary care of 30 days or less while conducting a diagnostic evaluation to identify the most appropriate long-term placement for a child who has been committed to the Department of Juvenile Justice; and

c. When a state mental hospital is evaluating a child's treatment needs as provided by the *Code of Virginia*.

Interpretation of § 780.C: "Substantive" means change which affects the rights and privileges of residents, legal guardians, family, or referral agencies. Substantive changes include, but are not limited to, changes to the policies governing management of resident behavior which might affect residents' rewards/consequences, discharge, filing criminal charges, visitation privileges, off-campus activities, and home visits.

The information provided may be an overview of the facility's approaches and techniques for governing management of resident behavior. If the facility utilizes rules of conduct, they must be included. Exhaustive or detailed information about all the intricate facets of the program is not necessary.

Residents diagnosed as having mental disabilities resulting in the loss of the cognitive ability to understand the information include only those with a diagnosed medical or psychological disability which is likely to have long-term effects. A resident who is under the influence of alcohol or other controlled substance, who is disorderly, or who refuses to accept the information does not, for that reason alone, have a mental disability.

Frequently a referral agency (e.g. juvenile court, local department of public welfare/social services) will make multiple placements at the same facility. It is not necessary to provide the agency a copy of the written information with each admission; a single copy may be provided the agency for use by all agency personnel. When substantive revisions are made, a revised copy must be sent to the referral agencies.

D. Only trained staff members may manage resident behavior.

Interpretation of § 780.D: "Trained staff members" includes only individuals who have been trained in the facility's policies, procedures, and techniques for managing resident behavior. Residents may be involved in developing rules of conduct and penalties. However, implementation must remain exclusively a staff responsibility. Implementation shall not be delegated to residents, volunteers, students, or other nonstaff members.

Compliance Determination for § 780:

1. *Review the facility's written policies and procedures for managing resident behavior, including the written rules of conduct, if any. Determine whether the policies and procedures are appropriate to the age and developmental level of the residents. Determine whether there are written procedures for documenting and monitoring management of resident behavior.*

2. *Ask child care staff to describe the methods for managing resident behavior and compare the methods with those outlined in written policy.*

3. Review residents' records, daily logs, and emergency reports to determine the methods of managing resident behavior which have been used. Compare these with written policy.

4. Ask residents to describe the methods for managing resident behavior and compare the methods with those outlined in written policy. Ask residents when they received written information about the policies and procedures, include residents admitted by court order and emergency admission as well as planned admissions.

5. Review residents' records to determine when information was provided to legal guardians and placing agencies.

6. Determine whether substantive revisions have been made to policies governing management of resident behavior. If substantive revisions have been made, determine whether they were distributed within the required time frames.

7. Interview staff members responsible for managing resident behavior and determine what training they have received in managing resident behavior. Review training records to verify training.

22 VAC 42-10-790. Confinement.

A. The facility shall have and implement written policies and procedures governing the conditions under which a resident may be confined and the maximum period of confinement. The conditions and maximum period of confinement shall be based on the resident's chronological and developmental level.

B. The room in which a resident is confined shall not be locked nor the door secured in a manner that prevents the resident from opening it, except that this subsection does not apply to secure custody facilities.

C. A confined resident shall be able to communicate with staff.

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

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

Compliance Determination for § 790:

1. Ask child care staff and residents to describe the procedures for restricting a resident to his room.

2. Determine whether residents are ever confined in a locked room.

3. Determine whether residents are able to communicate with staff when confined.

4. Review residents' records and daily logs for documentation of confinement, including documentation of room checks.

5. Review policies and procedures to determine when checks will occur more frequently than every 30 minutes.

22 VAC 42-10-800. Prohibitions.

The following actions are prohibited:

1. Deprivation of drinking water or food necessary to meet a resident's daily nutritional needs except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;

2. Limitation on contacts and visits with the resident's attorney, a probation officer, regulators or placing agency representative;

Interpretation of § 800.2: Facility personnel may provide these individuals information about scheduled educational, therapeutic, and recreational activities and suggest convenient times for visitation. However, access may not be denied if the individuals elect to visit at other times.

3. Bans on contacts and visits with family or legal guardians except as permitted by other applicable state regulations or by order of a court of competent jurisdiction;

Interpretation of § 800.3: Ban means a total prohibition on contacts and visits with the family or legal guardian. Contacts and visits may be limited to regularly scheduled visitation periods and other times when visits will not interfere with a resident's participation in facility activities. In addition, visits may temporarily be restricted when it is therapeutically in the best interest of the resident.

4. Delay or withholding of incoming or outgoing mail except as permitted by other applicable state and federal regulations or by order of a court of competent jurisdiction;

Interpretation of § 800.4: Federal law prohibits the tampering with another individual's mail. Any need to limit or prohibit communication between a resident and another person would be governed by federal postal regulations. Facility personnel may withhold mail of minors if the legal guardians document their approval of or request for withholding mail. In these instances, facilities should ask the legal guardian what to do with the unopened mail. Facilities may have the resident open mail in the presence of staff when there is a concern for the resident's safety or well-being or an indication that contraband may be concealed. Mail must be promptly given to residents except where an applicable state or federal regulation permits a delay (e.g., the Department of Juvenile Justice regulation permitting mail be searched for contraband prior to being given to residents).

5. Any action which is humiliating, degrading, or abusive;

Interpretation of § 800.5: This standard may apply in many different circumstances that are humiliating, degrading or abusive. The definitions of humiliating, degrading, and abusive found in Webster's Dictionary, the use of professional judgment, and consideration for the individual circumstances will apply. Regulators will not use the same definition of abuse or neglect as used by child protective services.

6. Corporal punishment;
7. Subjection to unsanitary living conditions;

Interpretation of § 800.7: Clean, hygienic, and healthy conditions, evidenced by an absence of dirt and agents of disease, are to be maintained.

8. Deprivation of opportunities for bathing or access to toilet facilities except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;
9. Deprivation of health care;
10. Deprivation of appropriate services and treatment;

Interpretation of § 800.10: Appropriate services and treatment shall be provided. Examples of depriving appropriate services and treatment may include, but not be limited to, if a facility fails to

1. *follow through with the recommended therapeutic treatment for a resident*
2. *to provide the services established in the service plan and described in its program description*
3. *provide necessary medical treatment*

11. Application of aversive stimuli except as permitted pursuant to other applicable state regulations;
12. Administration of laxatives, enemas, or emetics except as ordered by a licensed physician or poison control center for a legitimate medical purpose and documented in the resident's record;
13. Deprivation of opportunities for sleep or rest except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record; and
14. Limitation on contacts and visits with advocates employed by the Department of Mental Health, Mental Retardation and Substance Abuse Services or the Department for Rights of Virginians With Disabilities.

Interpretation of § 800: This section specifies actions that are prohibited in all interactions with residents.

Compliance Determination for § 800:

1. *Review personnel records for any indication that inappropriate actions may have occurred. Review resident records and daily logs for indications of serious incidents where a prohibited action may have occurred.*

2. *Ask staff and residents if any of the prohibited actions have occurred.*

3. *Observe interactions between staff and residents and conditions at the facility for any indication of prohibited actions.*

22 VAC 42-10-810. Chemical or Mechanical Restraints.

A. Use of mechanical restraints is prohibited except as permitted by other applicable state regulations or as ordered by a court of competent jurisdiction.

Interpretation of § 810.A: Mechanical restraints include, but are not limited to, handcuffs, straightjackets, shackles, poseys, and stun guns. A device is not considered to be a mechanical restraint when used to provide support for the achievement of functional body position or proper balance or when used for specific medical and surgical treatment or treatment for self-injurious behavior.

Compliance Determination for § 810.A:

1. *Ask the administrator, child care staff, and residents if mechanical restraints are ever used to control resident behavior. If evidence indicates that mechanical restraints are used, determine whether use is permitted and under what conditions, by another applicable state regulation or has been ordered by a court of competent jurisdiction.*

2. *If a determination of noncompliance is made, determine whether there is reason to suspect that abuse or neglect has occurred. If abuse or neglect is suspected, report the circumstances to Child Protective Services.*

B. Use of chemical restraints is prohibited.

Interpretation of § 810.B: Use of a psychotropic medication or other chemical(s) is not considered chemical restraint when administered as prescribed by a licensed physician to treat a diagnosed medical or psychiatric condition. Treatment of some medical and psychiatric conditions requires use of a psychotropic medication, or other chemical(s), to control behavior as an essential element of treatment. However, psychotropic medications and other chemicals shall not be used as a staff management tool for the sole purpose of controlling resident behavior.

Compliance Determination for § 810.B:

1. *Ask the administrator, child care staff, and residents if chemical restraints are ever used to control resident behavior. If evidence indicates that chemical restraints are used, determine whether use is limited to those instances where prescribed by licensed physicians to treat diagnosed medical or psychiatric conditions.*

2. If a determination of noncompliance is made, determine whether there is reason to suspect that abuse or neglect has occurred. If abuse or neglect is suspected, report the circumstances to Child Protective Services.

3. Review the resident's diagnosis and the medication prescribed and the doctor's rationale for prescribing the medication.

22 VAC 42-10-820. Physical Restraint.

Intent of § 820: The intent of these sections is to ensure that physical restraint is used judiciously and only when, in the judgement of a reasonable and informed person, the resident's behavior would likely result in harm to the resident or others. These sections are also intended to: (1) protect residents from unwarranted use of physical restraint and (2) protect staff members and residents from the injuries which might occur during use of physical restraint.

A. The facility shall have and implement written policies and procedures governing use of physical restraint.

B. The facility's procedures shall include methods to be followed should physical restraint, less intrusive interventions, or measures permitted by other applicable state regulations prove unsuccessful in calming and moderating the resident's behavior.

C. Use of physical restraint shall be limited to that which is minimally necessary to protect the resident or others.

D. Trained staff members may physically restrain a resident only after less intrusive interventions have failed or when failure to restrain would result in harm to the resident or others.

Interpretation of § 820.D: The facility is expected to develop an action plan to be followed in the event the interventions normally used are unsuccessful. Factors which should be considered in developing the action plan include: the population served, the level of residents' disabilities, and access to external services.

E. Each application of physical restraint shall be fully documented in the resident's record including:

1. Date;
2. Time;
3. Staff involved;
4. Circumstances;
5. Reasons for using physical restraint;
6. Duration;
7. Method or methods of physical restraint used; and

8. Less intrusive interventions which were unsuccessfully attempted prior to using physical restraint.

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

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

2. Staff shall review the facility's training in physical restraint and less intrusive interventions at least annually.

Interpretation of § 820: When assessing whether to use physical restraint with residents who are attempting to run away, it is necessary to consider both the environmental conditions and the resident's capabilities. Physical restraint may be used only when an assessment determines that harm is highly likely. Capabilities to assess include, but are not necessarily limited to: the resident's age, maturational level; emotional state; adaptive behavior skills; disabilities; past behavior when under stress; impulsiveness; and judgement. Environmental factors to assess include, but are not necessarily limited to: the time of day, weather, temperatures, and geographic location of the facility.

Facility personnel shall not physically restrain residents prior to being trained in the facility's physical restraint procedures and techniques. The annual review includes refresher training in the facility's physical restraint procedures and techniques and to less intrusive interventions.

Compliance Determination for § 820:

1. Determine whether the facility has policies and procedures governing use of physical restraint. Review the policies and procedures to determine if the procedure addresses methods staff should utilize in cases where physical restraint and less intrusive intervention do not calm the resident or moderate the resident's behavior.

2. Ask the administrator and child care staff to describe: (i) less intrusive interventions which are utilized prior to using physical restraint, (ii) circumstances when physical restraint might be necessary and when it would not be necessary, and (iii) the approved procedures and techniques of physical restraint.

3. Ask residents if they have ever been physically restrained or have ever observed a resident being physically restrained. Ask residents to describe the technique(s).

4. Review residents' records to determine whether the required documentation is included.

5. Review staff records for documentation to determine if staff members responsible for supervision of children received the following:
   a. basic orientation within seven days of employment
   b. training in physical restraint procedures and techniques
   c. annual refresher training in physical restraint procedures and techniques

6. Review restraint reports to determine that staff who have applied restraints have been trained.

22 VAC 42-10-830. Seclusion.

Seclusion is allowed only as permitted by other applicable state regulations.

Interpretation of § 830: In section 10 of these standards, seclusion means placing a resident in a room with the door secured in any manner that prevents the resident from opening it. Timeout means temporarily removing a resident and placing the resident alone in a special timeout room that is unfurnished or sparsely furnished and which contains few reinforcing environmental stimuli. Programs licensed by DMHMRSAS should refer to the definitions of seclusion and timeout in the Human Rights regulations.

Compliance Determination for § 830:

1. Ask the administrator, child care staff and residents if residents are secluded.

2. If evidence from interviews, client records, or observation indicates that seclusion occurs, determine whether use is permitted by another applicable state regulation.

22 VAC 42-10-840. Timeout.

Timeout is allowed only as permitted by other applicable state regulations.

Interpretation of § 840: This section prohibits the use of "timeout" only as defined in Section 10 which reads, "Timeout means temporarily removing a resident and placing the resident alone in a special timeout room that is unfurnished or sparsely furnished and which contains few reinforcing environmental stimuli." As "timeout" is narrowly defined, many interventions therapeutically and traditionally referred to as "timeout" are not contained in the definition and, therefore, are permitted. Requirements regarding "timeout" do not prohibit a resident from voluntarily placing himself in a timeout room in order to calm down.

Compliance Determination for § 840:

1. Ask the administrator, child care staff and resident if residents are placed in a special room that is used solely for timeout and is unfurnished or sparsely furnished and contains few reinforcing stimuli.

2. If evidence from interviews, client records, or observation indicates that timeout is used, determine whether use is permitted by another applicable state regulation.

22 VAC 42-10-850. Education.

Intent of § 850: Skills learned as a participant in a formal educational process are important to

functioning in society. The provision of an adequate education is a necessary service in a residential facility. Children in residential care frequently have some social, emotional or physical problem(s) affecting their ability to learn; it is imperative that the resident's educational program address the resident's individual needs and abilities through the service plan.

A. Each resident of compulsory school attendance age shall be enrolled in an appropriate educational program as provided in the *Code of Virginia*.

Interpretation of § 850.A: Residents through age 18 must be enrolled in an appropriate school program which meets the resident's academic and special education needs. Children with disabilities are eligible for special education services up to age 22.

Children should be enrolled in school immediately upon acceptance for care in a facility. Ideally, the educational placement should be determined prior to admission.

B. The facility shall ensure that educational guidance and counseling in selecting courses is provided for each resident and shall ensure that education is an integral part of the resident's total program.

Interpretation of § 850.B: The facility shall ensure that each resident is provided a program of instruction that promotes individual student academic achievement at successive grade levels, that meet or exceed the knowledge and skills contained in the Standards of Learning for English, mathematics, science, and history/social science adopted by the Virginia Board of Education in June 1995. Instruction shall be designed to accommodate each resident and meet the abilities, interest, educational and transitional needs of the residents.

C. Facilities operating educational programs for children with disabilities shall operate those programs in compliance with applicable state and federal statutes and regulations.

Interpretation of § 850.C: This standard refers to the approval of private educational programs for children with disabilities as specified in Title 22 of the Code of Virginia. Such programs must be approved by the Department of Education.

The educational program of each school shall reflect the written philosophy of the school by implementing the stated objectives through methods, procedures and practices which reflect an understanding of and meet the applicable academic, vocational, and therapeutic needs of the residents. Educational programs for students with disabilities shall be conducted in accordance with appropriate regulations governing the education of children with disabilities approved and issued by the Virginia Board of Education.

Each student identified by an LEA (Local Education Agency) as eligible for special education and related services shall have an Individual Education Plan (IEP) on file with the school. Students not identified as such and those placed by parents shall have an Individualized Instruction Plan (IIP).

Records of students shall be kept in accordance with regulations of the Virginia Board of Education. Guidelines for record keeping are outlined in the current edition of the publication, Management of Student's Scholastic Record in the Public Schools of Virginia.

The school program shall follow the Standards for Accrediting Public Schools in Virginia for conferring credit and diplomas.

Teachers must meet licensure requirements set forth in the current edition of the Virginia Licensure Regulations for School Personnel.

The Department will conduct a review of the education program using the educational module which contains requirements of applicable state and federal regulations.

D. When a child with disabilities has been placed in a residential facility without the knowledge of school division personnel in the resident's home locality, the facility shall contact the superintendent of public schools in that locality in order to effect compliance with applicable state and federal requirements relative to the education of children with disabilities.

Interpretation of § 850.D: The facility should contact the superintendent in the home locality and request all pertinent records related to the educational program of the child with disabilities including eligibility information and any current IEP, if this information did not accompany the child at the time of admission.

E. A facility which has an academic or vocational program that is not certified or approved by the Department of Education shall document that teachers meet the qualifications to teach the same subjects in the public schools.

Interpretation of § 850.E: Teachers employed in programs which are not required by law to be certified must be individually certified by the Department of Education.

Compliance Determination for § 850:

1. *Ask the administrator where residents of compulsory school age attend school. All residents should be enrolled in either an appropriate public or private school program in the community or an approved residential school for children with disabilities. It is useful to obtain a list of residents with the place of school attendance indicated.*

2. *Review residents' records for a current report card, Individual Education Plan (IEP), letter of expulsion/suspension or other correspondence from schools.*

3. *In reviewing residents' records, determine which children have been identified as children with disabilities. The records of all children with disabilities must contain a current IEP. Is the child with disabilities receiving special education services?*

4. *Determine through record reviews and interviews if there is evidence that the facility assures that education is a fundamental and integral part of each resident's program at the facility. Facilities should not accept a child unless it is known that the educational needs of the child can be met. Immediately following admission to the facility, a child should be admitted to a school program.*

5. Ask the administrator how each resident's educational placement is determined. If it is suspected that a resident might be in need of special education services, ask the administrator whether the resident has been referred to the local school division for a complete evaluation to determine eligibility for these services.

6. Review residents' service plans and progress reports for documentation of counseling and guidance related to the residents' educational programs. If residents attend public schools, how much contact does the facility have with the local schools? Interview staff to further determine: (a) Which person signs residents' papers and report cards? and (b) Who attends school meetings and conferences regarding individual residents?

7. If the facility operates a private school for children with disabilities, determine whether requirements have been met for the approval of private educational programs for children with disabilities as specified in Title 22 of the Code of Virginia.

8. Determine whether the school superintendent in the home locality of each child with a disability has been contacted in accordance with state and federal law.

22 VAC 42-10-860. Religion.

Intent of § 860: An individual, as guaranteed by the United States Constitution, has a right to follow his own conscience in matters of religion. Participation in religious practices must be a personal decision left to the discretion of the resident and the resident's family or legal guardian. Resident's come from a variety of religious backgrounds. Facilities should respect the religious beliefs of a resident who may have a different faith background than the sponsors of the facility and are encouraged to provide opportunities for that resident to practice his faith.

A. The facility shall have and implement written policies regarding opportunities for residents to participate in religious activities.

B. The facility's policies on religious participation shall be available to residents and any individual or agency considering placement of a child in the facility.

Interpretation of § 860.B: Facilities must let parents and placing agencies know prior to admission what their policies on religion are in order to avoid any misunderstanding after placement.

Policies may be handed to or mailed to individuals or agencies considering placement of a child. If the people involved will be visiting the facility during the admission phase, the written policies may be posted on a bulletin board or kept in a notebook to which they have access. The criteria may also be made available through such methods as inclusion in a brochure or a handbook.

C. Residents shall not be coerced to participate in religious activities.

Interpretation of § 860.C: Religious activities refer to any activity that involves the worship, teaching, or demonstration of any religion's beliefs. These may include organized church services, Bible study, prayer groups, and worship services held on or off the facilities' premises.

Webster's Dictionary defines "coerce" as "to enforce by force or threat." When one of the following practices is used to assure a resident's participation in religious activities, it constitutes "coercion":

1. *Ostracism (encouraged or fostered by staff);*
2. *Applying or threatening to apply negative consequences; or*
3. *Denial of privileges or service generally given to the resident.*

When any of the above methods is used to assure residents' participation in religious activities, the facility is in noncompliance with the standard.

Compliance Determination for § 860:

1. *Review the facility's written policies regarding the opportunities for residents to participate in religious practices.*

2. *Evaluate whether the policies clearly explain the religious training and experiences available to residents.*

3. *Ask the administrator how he makes the written criteria available to individuals and agencies seeking to place a child.*

4. *When a facility provides or arranges for residents' regular attendance at sessions of religious education or worship services, ask the administrator how a resident's decision not to participate is handled.*

5. *Review residents' records to determine whether coercion has been used to assure the participation.*

6. *Ask residents if they are forced to participate in religious activities. Ask residents what consequences, if any, result from failure to participate in religious activities.*

22 VAC 42-10-870. Recreation.

Intent of § 870: The intent of this section is to assure that residents are offered a planned program of varied activities that are appropriate for their capabilities and interests. A well planned recreation program provides the residents with the opportunity to develop skills in leadership, team work, sharing, etc.

A. The facility shall have a written description of its recreation program which describes activities which are consistent (i) with the facility's total program and (ii) with the ages, developmental levels, interests, and needs of the residents.

B. The facility shall have and implement a recreation program which is consistent with the written description and which includes:

1. Opportunities for individual and group activities;

2. Free time for residents to pursue personal interests which shall be in addition to a formal recreation program except this subdivision does not apply to secure custody facilities;

3. Use of available community recreational resources and facilities except this subdivision does not apply to secure custody facilities;

4. Scheduling of activities so that they do not conflict with meals, religious services, educational programs or other regular events; and

5. Regularly scheduled indoor and outdoor recreational activities that are structured to develop skills and attitudes.

C. Recreational programs and field trips shall be directed and supervised by adults who are knowledgeable in the safeguards required for the activities.

Intent of § 870.C: Since residents involved in recreational activities are exposed to potential injuries, altercations and other dangers which puts them at risk, it is the intent of this standard that competent adult supervision is provided during recreational activities in order to minimize problems.

Interpretation of § 870.C: When determining the level and nature of supervision to be provided, the decision must be based on a consideration of the ages, developmental levels, interests, and needs of the residents as well as the type of activities involved.

This section only requires that the supervision be provided by adults who have sufficient knowledge of the recreational activities being conducted to ensure a safe environment for the participating children. The successful completion of a recognized program of training or education is one verifiable manner of documenting that a supervisor has the necessary knowledge. Knowledge may also be gained through previous life or work experiences. It is the responsibility of facility administrators to ensure that supervisors have the necessary knowledge to ensure a safe and secure environment for children.

In determining the nature and level of supervision to be provided, facility administrators are encouraged to consider potential liability issues related to the activity. In some instances, the use of supervisors who have completed a specific course of training may be judicious even though not required by this section.

Compliance Determination for § 870:

1. Review the written description of the recreation program.

2. Evaluate the recreation program in light of information previously gathered about the ages and capabilities of the residents. The recreation program should include free time and diversional activities as well as times for activities that support the service plan. Some residents from unstructured backgrounds may have difficulty dealing with use of free time so it is important that a facility have a well thought out recreation program with adult guidance and supervision. It is just as important that there be some periods when residents can relax, amuse themselves, be creative, or engage in simple social exchanges.

3. Review the components of the recreational program and ask about direction and supervision of each activity. This includes indoor, outdoor (both on and off the premises) and field trip activities.

4. Assess from personnel records and discussions whether persons providing supervision are knowledgeable about the activity being supervised (e.g. water safety, boating, swimming, first aid).

22 VAC 42-10-880. Community Relationships.

Intent of § 880: A primary goal of residential care is to enable the residents to function successfully when they return to the community. Living in a children's residential facility can be an isolating experience; therefore, efforts should be made to provide the residents opportunities for interaction with community groups and resources.

A. Opportunities shall be provided for the residents to participate in activities and to utilize resources in the community except this section does not apply to secure custody facilities.

B. The facility shall have and implement written procedures for evaluating persons or organizations in the community who wish to associate with residents on the premises or take residents off the premises. The procedures shall cover how the facility will determine if participation in such community activities or programs would be in the residents' best interest.

Interpretation of § 880.B: The reliability of the people involved in providing these experiences and the appropriateness of the activity itself must be evaluated to determine if participation would be in the residents' best interest.

Compliance Determination for § 880:

1. Discuss with the administrator, child care staff and residents, opportunities for participation in community activities.

2. Review the written procedures required in § 880.B and the schedule of activities.

3. Review community-sponsored programs offered to residents. Evaluate the appropriateness of the activities. Interview the administrator to determine how the reliability of the people providing these activities is assessed.

4. Determining whether the opportunities offered are consistent with the type and volume of activities available in the community.

22 VAC 42-10-890. Clothing.

A. Provision shall be made for each resident to have an adequate supply of clean, comfortable, well-fitting clothes and shoes for indoor and outdoor wear.

B. Clothes and shoes shall be similar in style to those generally worn by children of the same age in the community who are engaged in similar activities except this requirement does not apply to secure custody facilities.

C. Residents shall have the opportunity to participate in the selection of their clothing except this requirement does not apply to secure custody facilities.

D. Residents shall be allowed to take personal clothing when leaving the facility.

Interpretation of § 890.D: Personal clothing refers to any clothing provided to a resident for permanent use. This does not include clothing, such as that assigned for recreational activities, vocational classes or kitchen duty.

Compliance Determination for § 890:

1. *Observe personal supplies of clothing and shoes for residents and evaluate for adequacy of supply and appropriateness of style.*
2. *Ask child care staff what criteria are used to determine adequacy of supply and appropriateness of style.*
3. *Ask residents and child care staff how residents participate in the selection of clothing.*
4. *Ask residents what happens if clothes or shoes need repair.*
5. *Observe condition of clothes and shoes and adequacy of clothes.*
6. *Review discharge procedures for any restrictions that may be made regarding personal clothing.*
7. *Ask staff how they assure that each resident takes his personal clothing at discharge.*

22 VAC 42-10-900. Allowances and Spending Money.

A. The facility shall provide opportunities appropriate to the ages and developmental levels of the residents for learning the value and use of money except this requirement does not apply to secure detention facilities.

B. There shall be a written policy regarding allowances which shall be made available to legal guardians at the time of admission except that this requirement does not apply to secure detention facilities.

Interpretation of 900.B: Allowances are included in the rate paid for foster children. The provision or assurance of an allowance is encouraged. Many residents will not have experience managing money if they do not receive an allowance.

C. The facility shall have and implement written policies for safekeeping and for recordkeeping of any money that belongs to residents.

D. A resident's funds, including any allowance or earnings, shall be used for the resident's benefit.

Interpretation of § 900.D Payment for malicious damage may be assessed from resident's allowances. Fining residents for other behaviors will require a variance to this standard. Fining should also be addressed in the behavior management policies.

Compliance Determination for § 900:

1. *Ask staff and residents how residents acquire money and what opportunities exist to learn its value.*
2. *Determine what opportunities residents have for use of money.*
3. *Ask staff and residents how money is used.*
4. *Review the written policy on allowances and ask how the policy is made available to parents or legal guardians.*
5. *Determine whether residents have their own money.*
6. *Ask how the money is kept safely.*
7. *Review the record keeping system used to account for residents' money.*

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

Intent of § 910: In-house chores, work assignments, and employment can provide positive experiences that teach residents responsibility and the value of money. There is, however, a potential for abuse if residents are required to do work that is physically or emotionally too strenuous. Because individuals in the community and in the institution itself may seek to take advantage of residents, it is important that all work for residents be evaluated for appropriateness by a responsible staff person.

A. Assignment of chores, which are paid or unpaid work assignments, shall be in accordance with the age, health, ability, and service plan of the resident.

Interpretation of § 910.A: "Chore" refers to an in-house job assignment. The dictionary defines it as "the regular or daily light work of household or farm."

B. Chores shall not interfere with school programs, study periods, meals or sleep.

C. Work assignments or employment outside the facility, including reasonable rates of pay, shall be approved by the program director with the

knowledge and consent of the legal guardian except this requirement does not apply to secure detention facilities.

Interpretation of § 910.C: Work assignments can take various forms, such as residents assisting, with or without pay, with a town fair, picking up litter as part of a clean-up campaign, raking leaves or shoveling snow. In both work assignments and employment, the program director should evaluate the appropriateness of the work and the fairness of the pay received.

D. The facility shall have and implement written procedures to ensure that the work and pay of residents complies with applicable laws governing wages and hours and laws governing labor and employment of children. In both work assignments and employment, the program director shall evaluate the appropriateness of the work and the fairness of the pay.

Interpretation of § 910.D: This standard reinforces the facility's responsibility to ensure that the work and pay of residents comply with any applicable laws governing wages and hours and any laws governing labor and employment of children, such as current minimum wages, work permits and type of employment permitted. If there is any doubt about such compliance, the facility should be required to consult the appropriate federal and state agencies about their work arrangements for children and to seek written documentation of the compliance of those arrangements with applicable laws. Call the Department of Labor and Industry for questions regarding fair rates of pay.

Compliance Determination for § 910:

1. *Ask what chores specific residents are required to do.*
2. *Determine the appropriateness of the chores by:*
   - *Reviewing the records and service plans of individual residents.*
   - *Reviewing chore lists and work schedules, if available.*
   - *Asking staff what criteria were used in selecting chores for specific residents.*
   - *Asking residents what chores they do and whether they are fair assignments.*
3. *Review information gathered when evaluating the daily program of care as to time allotted for chores.*
4. *Ask staff and residents what happens if a resident does not do a chore satisfactorily in the time allowed.*
5. *Determine what staff member carries responsibility for directing the work program and ask that person what criteria are used in evaluating assignments and employment.*

6. Ask the staff member how the legal guardian is made aware of work assignments and employment and how consent is obtained.

7. Review documentation of the program director's approval of work assignments outside of the facility or employment.

8. Review facility practices regarding payment of any required minimum wage for hours of employment of residents inside or outside the facility. Assess the appropriateness of the residents' ages, work performed, job hazards and whether work permits are required.

9. Verify that residents' earnings accrue to their benefit.

10. Discuss with residents how their earnings are managed.

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

Intent of § 920: Because past ties can be weakened through separation, the facility must make efforts to facilitate visits to the resident's home and visits by family and friends at the facility when appropriate. To create as normal a life as possible, a resident should be able to have new friends and associates visit with him at the facility. Residents will need the involvement of facility staff to encourage contacts with family.

The person or agency placing the resident in the facility has the right and responsibility to visit the resident.

A. The facility shall have and implement written visitation policies and procedures which allow reasonable visiting privileges and flexible visiting hours except as permitted by other applicable state regulations.

B. Copies of the written visitation policies and procedures shall be made available to the parents, when appropriate, legal guardians, the resident, and other interested persons important to the resident no later than the time of admission except that when parents or legal guardians do not participate in the admission process, visitation policies and procedures shall be mailed to them within 24 hours after admission.

C. In secure detention, except when a juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice, and temporary care facilities, written visitation policies and procedures shall be provided upon request to parents, legal guardians, residents, and other interested persons important to the residents.

Compliance Determination for § 920:

1. Review written visitation policies and procedures and assess the flexibility and reasonableness of the visitation hours.

2. Ask the administrator and residents how the written visitation policies and procedures are made available to the parents, legal guardians, other interested persons important to the resident, and resident.

3. Ask the administrator if the facility has received permission from the legal guardian and/or the placing agency to allow visitation with family members or other interested persons.

22 VAC 42-10-925. Resident Visitation at the Homes of Staff.

If a facility permits staff to take residents to the staff's home, the facility must receive written permission of the resident's legal guardian or placing agency before the visit occurs.

Interpretation of § 925: Facilities who allow staff to take children to the staff's home for a visit should consider the liability issues with the policy and should consider consulting their attorneys before the policy is implemented. Should visitation become a regular occurrence or for an extended duration the placing agency may require a home study.

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

A. Transportation provided for or used by children shall comply with local, state, and federal laws relating to:

1. Vehicle safety and maintenance;
2. Licensure of vehicles;
3. Licensure of drivers; and
4. Child passenger safety, including requiring children to wear appropriate seat belts or restraints for the vehicle in which they are being transported.

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

Interpretation of § 930.B: Each stop means each place where individuals get on and off the vehicle.

C. The facility shall have and implement written safety rules for use and maintenance of vehicles and power equipment.

Interpretation of § 930.C: Written safety rules are necessary for power equipment which presents a danger to children. Such equipment may include, but is not necessarily limited to, elevators, dumbwaiters, exhaust and ventilation systems, lawn mowers, and chain saws.

Compliance Determination for § 930:

1. Review the license(s) or list of licenses for vehicles and drivers and discuss with the administrator the maintenance of vehicles.

2. Review written safety rules for transportation of children including the procedures for taking head counts. Interview staff and residents regarding the implementation of the safety rules.

3. Review the written safety rules for transportation and safety rules for use and maintenance of power equipment.

22 VAC 42-10-940. Reports to Court.

When the facility has received legal custody of a child pursuant to the *Code of Virginia*, copies of any foster care plans submitted to the court shall be placed in the resident's record.

Compliance Determination for § 940:
Determine whether the foster care plan of any resident for whom the facility has legal custody is filed in the resident's record.

22 VAC 42-10-950. Emergency Reports.

Intent of § 950: The intent of 950 is to assure timely notification of any serious incident to all responsible parties. Section 950.B is intended to assure the incident and its reporting are thoroughly documented.

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

B. The facility shall document the following:
1. The date and time the incident occurred;
2. A brief description of the incident;
3. The action taken as a result of the incident;
4. The name of the person who completed the report;
5. The name of the person who made the report to the placing agency and to either the parent or legal guardian; and
6. The name of the person to whom the report was made.

Interpretation of § 950: The term "parent/legal guardian/placing agency" means the person, agency, or institution that holds legal custody of the resident. For temporary care facilities the term "parent/legal guardian/placing agency" means the "persons or agencies to contact in case of emergency" as documented on the face sheet in the resident's record.

Please refer to § 980 for situations that require notification to the licensing authority and other appropriate officials and to § 960 for requirements to report child abuse and neglect.

The facility may elect to notify other persons having significant interest in the child (e.g. biological parent or non-custodial agency financially responsible for the resident's care). Prior to notifying other parties, the facility should determine whether there (i) is an order from a court of competent jurisdiction prohibiting notification or (ii) are legitimate treatment needs which make notification unadvisable.

The legal guardian has the right to be informed of any incident which may indicate that the resident's safety is in jeopardy; additional treatment, service or supervision are needed; or that an alternative placement may be needed.

The facility should also refer to any additional regulations of the licensing authority; e.g. Human Rights Regulations.

"Serious incidents" include accidents or injuries to the resident requiring medical attention other than minor first aid, unauthorized absences from the facility, allegations of child abuse or neglect, serious infractions of facility or school rules, suspected drug abuse, accusations of criminal conduct, serious illnesses, serious altercations with staff or other residents, or any other event or incident involving the resident which may reasonably impact on the rights and responsibilities of the resident's legal guardian.

Documentation that the facility appropriately handled such incidents may protect the facility and its staff from unfounded or unwarranted accusations.

Compliance Determination for § 950:

1. *Talk with the facility administrator and staff members who have responsibility for compliance with these sections about the means they use to ensure compliance. This may include questions about the factors or the criteria they use to make the determination that the incident is serious enough to warrant a report to the legal guardian and the procedures they utilize in making the report.*

2. *Confer with the administrator and staff members about methods they use to ensure that the report is made within the appropriate time frame. When attempts to contact the responsible party within 24 hours are not successful, the unsuccessful efforts must be documented. The agency or court must be notified by mail within 24 hours or by telephone or in person on the first working day following the incident, accident or injury.*

   Documentation of these actions shall constitute compliance with § 950.A.

3. *Review a sample of records of residents involved in serious incidents, accidents, overnight absences without permission, any other unexplained absences, or who have run away, to determine whether the records include all of the elements required by § 950.B.*

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

A. Written policies and procedures related to child abuse and neglect shall be distributed to all staff members. These shall include procedures for:

1. Handling accusations against staff; and

2. Promptly referring, consistent with requirements of the *Code*

***of Virginia*, suspected cases of child abuse and neglect to the local child protective services unit and for cooperating with the unit during any investigation.**

B. Any case of suspected child abuse or neglect shall be reported to the local child protective services unit as required by the *Code of Virginia.*

Interpretation of § 960: The Code of Virginia § 63.1-248.2 defines an abused or neglected child as any child less than 18 years of age whose parents or other person responsible for his care:

1. Creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions;

2. Neglects or refuses to provide care necessary for the child's health;

3. Abandons the child;

4. Commits or allows to be committed sexual exploitation or any sexual act upon a child in violation of the law; or

5. Leaves the child without care due to an unreasonable absence or due to a mental or physical incapacity.

Failure to report is a criminal offense. (§ 63.1-248.3 of the Code of Virginia.)

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

Interpretation for § 960.C: The required information shall be included in the resident's record even in cases where child protective services does not accept the case.

D. When a case of suspected child abuse or neglect is reported to child protective services, the resident's record shall include:

1. The date and time the suspected abuse or neglect occurred;
2. A description of the incident;
3. Action taken as a result of the incident; and
4. The name of the person to whom the report was made at the local child protective services unit.

Compliance Determination for § 960:

1. *Talk with the administrator and staff members about the procedures that are used in a case of suspected child abuse or neglect. If there has not been an instance of suspected child abuse or neglect, focus on what would happen should there be an instance of child abuse or neglect.*

2. *Discussion should include questions about which local department of public* welfare/social services would be notified, how to ensure that the local agency is notified as required by the Code *of Virginia, and the facility's procedures for internal reporting and notifying the local agency and notifying the regulatory authority and either the resident's parents or legal guardian, or both, as appropriate, as required by 960.C.*

3. *Review the record(s) of resident(s) suspected to have been abused or neglected to determine whether the record(s) contains the required elements.*

22 VAC 42-10-965. Grievance Procedures.

The licensee shall develop, adopt, follow and maintain on file written policies and procedures governing the handling of grievances by children. If not addressed by other applicable standards, the policies and procedures shall:

1 Be written in clear and simple language;

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

3. Be posted in an area easily accessible to residents and their parents and legal guardians;

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

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

Interpretation for § 960: Posted means displayed on the wall, bulletin board, etc. which is easily seen or a notice prominently displayed telling where the grievance procedure can be obtained.

Compliance Determination for § 960:

1. *Review the grievance policy and procedures.*

2. *Discuss with the appropriate staff their awareness of the grievance procedures and what is covered.*

3. *Ask residents how they were informed of the grievance procedures.*

4. *Observe how the procedures are made accessible to parents and residents.*

5. *Review documentation from a sample of grievances.*

PART V DISASTER OR EMERGENCY PLANNING

The facility is required to have written procedures to follow in emergencies. It is also required that these plans be known by staff and, as appropriate, residents. It is advisable that the facility develop its emergency plans with the assistance of state or local public safety authorities.

22 VAC 42-10-970. Emergency and Evacuation Procedures.

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

1. Severe weather;
2. Loss of utilities;
3. Missing persons;
4. Severe injury; and
5. Emergency evacuation, including alternate housing.

B. Written procedures shall address responsibilities of staff and residents regarding:

1. Sounding of an alarm;
2. Emergency evacuation including assembly points, head counts, primary and secondary means of egress, evacuation of children with special needs, and verifying complete evacuation of the buildings;
3. Alerting emergency authorities; and
4. Use of emergency equipment.

C. Emergency procedures shall address the handling of residents with special needs.

Interpretation of § 970.A-C: Staff need to be aware that residents may panic in an emergency and may not respond as they would under normal circumstances. Residents may also have temporary special needs such as a fractured leg or other injuries that would limit their response to the emergency.

Compliance Determination for § 970. A-C:

1. Verify that the required written procedures cover the specified emergencies.

2. Verify that there is an adequate method for informing staff and residents of emergency plans.

3. Verify that staff received training in emergency procedures within the required time frame.

4. Determine whether any residents with special needs are in residence. If so, verify that the staff and the residents are familiar with the procedures.

5. Ask a representative sample of administrators, supervisors, child care staff, support staff, etc. to describe their duties in various emergency

situations; ask them to describe the nature and frequency of their training.

6. Being careful not to alarm them, ask a representative sample of residents what they have been instructed to do in different emergency situations and what they have been asked to report to staff.

D. Floor plans showing primary and secondary means of egress shall be posted on each floor in locations where they can easily be seen by staff and residents.

E. The procedures and responsibilities reflected in the emergency procedures shall be communicated to all residents within seven days following admission or a substantive change in the procedures.

F. The telephone numbers of the authorities to be called in case of an emergency shall be prominently posted on or next to each telephone.

G. At least one evacuation drill (the simulation of the facility's emergency procedures) shall be conducted each month in each building occupied by residents.

H. Evacuation drills shall include, at a minimum:

1. Sounding of emergency alarms;
2. Practice in evacuating buildings;
3. Practice in alerting emergency authorities; and
4. Simulated use of emergency equipment.

I. During any three consecutive calendar months, at least one evacuation drill shall be conducted during each shift.

Interpretation of § 970. G-I: It is not required that staff awaken and evacuate sleeping children at night. Rather, the standard requires at a minimum that the staff quietly simulate the various duties they would carry out should there be an emergency. This would include simulating the activation of the alarm; simulating alerting emergency authorities; dispersing to evacuation duty stations; simulating the opening and closing of appropriate doors, e.g. having appropriate keys available, testing locks, etc.; and simulating other appropriate staff activities as required by the emergency plan. Simulated drills must be documented in accordance with §970.G-I.

J. The facility shall assign at least one staff member responsibility for conducting and documenting evacuation drills.

K. A record shall be maintained for each evacuation drill and shall include the following:

1. Buildings in which the drill was conducted;
2. Date and time of drill;
3. Amount of time to evacuate the buildings;

4. Specific problems encountered;

5. Staff tasks completed including:

a. Head count, and

b. Practice in notifying emergency authorities;

6. A summary; and

7. The name of the staff members responsible for conducting and documenting the drill and preparing the record.

L. The record for each evacuation drill shall be retained for three years after the drill.

M. The facility shall assign one staff member responsibility for the evacuation drill program at the facility who shall:

1. Ensure that evacuation drills are conducted at the times and intervals required by these interdepartmental standards and the facility's emergency procedures;

2. Review evacuation drill reports to identify problems in conducting the drills and in implementing the requirements of the emergency procedures;

3. Consult with the local emergency authorities, as needed, and plan, implement and document training or other actions taken to remedy any problems found in implementing the procedures; and

4. Consult and cooperate with local emergency authorities to plan and implement an educational program for facility staff and residents on topics in safety.

Interpretation of § 970.M: This standard requires the designation of a single individual to be responsible for the evacuation drill program. This person may or may not be the person(s) designated pursuant to § 970.J to conduct and document individual drills. In large facilities with multiple cottages it may be appropriate to appoint one or more staff to conduct, supervise, and document individual evacuation drills. § 970 requires that a single person monitor those activities and take corrective action when appropriate. In addition this person shall consult with the local emergency authorities to plan and implement a safety education program for staff and residents.

Compliance Determination for § 970:

1. Review the record of evacuation drills. Note the dates and times when the drills were held. Determine whether drills were appropriately conducted and documented.

2. If there are questions or concerns about the drills, ask the administrator, staff members or children about the frequency with which drills are held and the procedures followed.

3. Verify that one person is assigned responsibility for the evacuation drill program and that this person performs the duties outlined in § 970.M.

4. Talk with this designated staff person about his responsibilities in implementing the facility's safety program.

22 VAC 42-10-980. Notifications.

In the event of a disaster, fire, emergency or any other condition at the facility that may jeopardize the health, safety or well-being of the children, the facility shall:

1. Take appropriate action to protect the health, safety and well-being of the children;

2. Take appropriate actions to remedy the conditions as soon as possible, including reporting to and cooperating with local health, fire, police or other appropriate officials; and

3. Notify the regulatory authorities as soon as possible of the conditions at the facility and the status of the residents.

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

A. The facility shall develop a written plan to be implemented in case of a fire.

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

C. The telephone number of the fire department to be called in case of fire shall be prominently posted on or next to each telephone.

22 VAC 42-10-1000. Staff Training.

A. Each staff member shall be trained in fire procedures in accordance with the Virginia Statewide Fire Prevention Code (13 VAC 5-51-10 et.seq.).

Interpretation of § 1000.A: Facilities should consult with the local or state fire authority for assistance to determine the appropriate training for facility staff.

B. Each new staff member shall be trained in emergency procedures and their implementation prior to working alone while supervising one or more children and within seven days of employment.

APPENDIX A

REPORT OF TUBERCULOSIS SCREENING EVALUATION

Patient's Name: _____

1. Date and result of most recent Mantoux tuberculin skin test:

Date		mm of induration	

2. ☐ Check here if previously tested positive and above information is unknown.

3. ☐ Check here if exhibiting TB-like symptoms.

4. If TB skin test result is 10 mm or greater (5 mm in the HIV infected), previously positive or if TB-like symptoms exist, *respond to the following:*

A.

Date of last chest x-ray evaluation	

B.

Is chest x-ray suggestive of active TB?	Yes	No

C.

Were sputum smears collected and analyzed for the presence of acid fast bacilli (AFB)?	Yes	No

D.

If 4C is YES, were three consecutive smears negative for AFB?	Yes	No

5. Based on the above information, is this individual free of communicable TB?

Yes		No	

6. Name of licensed physician, physician's designee or local health department official completing the evaluation:

_____ Print Name

_____ Phone Number

7. Signature of licensed physician, physician's designee or local health department official completing the evaluation:

_____ Signature

_____ Date