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Final Regulation Agency Background Document

Agency name	Department (Board) of Juvenile Justice
Virginia Administrative Code (VAC) Chapter citation(s)	6 VAC35-41
VAC Chapter title(s)	Regulation Governing Juvenile Group Homes and Halfway Houses
Action title	Comprehensive review of regulatory provisions governing juvenile group homes and other nonsecure residential facilities
Date this document prepared	April 28, 2023

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This regulatory action proposes comprehensive amendments to the current Regulation Governing Juvenile Group Homes and Halfway Houses, which took effect on January 1, 2014. The purpose of this action is to continue to enhance programming and ensure safety and rehabilitation of residents within these facilities. The current regulation establishes the minimum standards with which staff in nonsecure juvenile group homes and similar nonsecure facilities must comply. The existing provisions address a wide range of topics applicable to group homes, including personnel requirements, physical plant facility safety and security, residents' rights, program operations, health care services, and behavior support and management. In its current form, the regulation also establishes requirements applicable solely to independent living programs, wilderness programs, family-oriented group homes, and respite care facilities.

The proposal makes several substantive changes primarily intended to enhance safety in juvenile group homes and similar facilities. Among the most noteworthy, the regulation requires periodic room checks, decreases the hours of required annual training necessary for certain direct care and direct supervision staff, and imposes information-sharing requirements when individuals who do not work in the facility transport certain residents off-site.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the “Definitions” section of the regulation.

- CSU means a court service unit.
- DBHDS means the Department of Behavioral Health and Developmental Services.
- DSS means the Department of Social Services.
- FOG means family-oriented group home.
- IL means independent living.
- JCC means a juvenile correctional center.
- JDC means a juvenile detention center.
- PREA means the Prison Rape Elimination Act of 2003.
- SIR means serious incident report or serious incident reporting.
- TB means tuberculosis.
- TYSC means Tidewater Youth Services Commission.
- VDH means the Virginia Department of Health.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On March 22, 2023, the Board of Juvenile Justice (the board) voted unanimously to advance additional proposed amendments to the Regulation Governing Juvenile Group Homes and Halfway Houses (6VAC35-41), alongside the proposed amendments that had already been approved, to the Final stage of the standard regulatory process. The approved amendments also proposed changing the chapter’s title to the Regulation Governing Juvenile Group Homes and other Nonsecure Juvenile Residential Facilities.

Mandate and Impetus

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.

As set out in the Agency Background Document submitted at the Proposed stage, the board initiated the Notice of Intended Regulatory Action for a comprehensive review of this chapter in June 2016. In May 2019, the board approved proposed amendments to this chapter for advancement through the Proposed stage of the standard regulatory process. On January 15, 2022, Governor Youngkin issued Executive Directive #1 mandating that executive branch agencies reduce their regulatory requirements by 25%. Although the repealed and stricken provisions in this chapter do not satisfy the Governor’s directive intrinsically, the board has approved additional amendments at the Final stage to move toward the 25% reduction requirement.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.

The promulgating entity is the Board of Juvenile Justice (the board). Pursuant to § 16.1-309.9 of the Code of Virginia, the board is required to “develop, promulgate, and approve standards for the development, implementation, operation, and evaluation of the community-based programs, services, and facilities” authorized by the Virginia Juvenile Community Crime Control Act.

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

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety, or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

The proposed amendments are a product of a comprehensive review of this chapter conducted by department staff and facility administrators from group homes, shelter care facilities, and other department-regulated nonsecure juvenile residential facilities. The amendments are necessary to clarify ambiguous or confusing provisions; eliminate requirements that are impractical, impose undue burdens on the regulated community, or are no longer necessary; incorporate active variances, and enact new requirements aimed at enhancing safety and security and improving the level of services available to juveniles placed in group homes and similar nonsecure juvenile residential facilities. The amendments also align with changes that have occurred since the department’s last review of the regulation, as described below:

Prison Rape Elimination Act: In 2003, Congress enacted PREA (Public Law No. 108-79) to “provide for the analysis of the incidence and effects of prison rape in federal, state, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape. The Act created a commission charged with developing standards for the elimination of prison rape. The final rule for these standards became effective in 2012; however, juvenile correctional facilities had until October 2017 to comply with the standards related to staffing requirements and staffing ratios. Although all group homes and similar facilities under the department’s jurisdiction are not “secure facilities” as contemplated by PREA, PREA’s staffing ratios provide a safe and reasonable benchmark for ensuring the safety of residents in nonsecure juvenile facilities both while on campus and while off campus participating in facility-sponsored events. The regulation’s existing requirements regarding staffing ratios in group homes do not align with the required staffing ratios in PREA, and the proposed amendments will conform Virginia’s regulations to these requirements.

Inclusion of active variances: The proposed amendments incorporate existing variances that acknowledge that residents in IL programs are developing skills and behaviors to live independently and therefore, do not need the same protections or level of supervision as residents in other group home facilities. The variances currently in place for IL programs address resident nutrition and staffing during resident emergencies. Because these variances are issued for temporary periods, the applicable IL

program has historically needed reauthorization from the board each time a variance was approaching expiration.

Room checks: Unlike the other residential facilities regulated by the board (juvenile correctional centers and secure juvenile detention centers), group homes, shelter care facilities, and other similar facilities are prohibited from placing residents behind locked doors or in secure areas where they are not free to leave. Whenever residents are confined in their rooms in JCCs and JDCs, staff must conduct periodic room checks to ensure the resident is safe. This requirement is not in place for group homes and similar facilities. The proposal directs group home staff to conduct periodic checks on residents in the facility once every 30 minutes, or more often if the circumstances justify additional checks. IL programs are excused from this requirement.

Regulatory reduction: The proposed amendments also reflect the department’s objective of reducing its regulatory requirements in keeping with Executive Directive #1.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.

The board has approved the following new provisions to the chapter, as summarized below:

- Section 115, *(recommended at Final stage)*, directing providers to take reasonable steps to ensure certain individuals with limited English proficiency or with conditions affecting communication understand any materials required for dissemination to such parties.
- Section 935, *(recommended at Proposed stage)*, requiring staff (except staff in IL programs) to conduct periodic checks of residents in the facility at 30-minute or more frequent intervals.
- Section 1005, *(recommended at Proposed stage)*, allowing direct care staff in IL programs an exception to the general 1:16 staffing ratio requirement in emergencies to enable such staff to leave the facility for no longer than one hour to attend to a resident offsite and in need of immediate assistance.

The board has approved several substantive amendments to existing language in this regulation, as summarized below:

Part I – General Provisions

- Section 10, *(recommended at Proposed stage)*, amending various definitions, including: (i) IL programs *(amended to require director rather than board approval of such programs)*; and (ii) rest day *(amended to allow staff to perform non-supervisory duties on rest days)*. Additionally, definitions were added for the following new terms: contractor, grievance, legally authorized representative, planned admission, tuberculosis risk assessment, and tuberculosis screening.
- Section 20, *(recommended at Final stage)*, adding clarifying language noting that the chapter does not apply to nonsecure juvenile residential facilities licensed by other state agencies and housing DJJ commitments.
- Section 40, *(recommended at Proposed stage)*, striking language requiring facilities to ensure that noncompliance with the regulation does not immediately and directly endanger residents.
- Section 50, *(recommended at Proposed stage)*, replacing the board with the director as the individual authorized to set age limits in group homes.

- Section 60, (*recommended at Proposed stage*), replacing the board with the audit team leader as the entity to whom reports and information demonstrating compliance with the regulatory requirements must be submitted.
- Section 90, (*recommended at the Proposed stage*), directing facilities to describe in the serious incident report the way the incident was communicated to the director or the director's designee and removing the provider's obligation to report "other situations" required by the board.
- Section 105, (*recommended at Proposed stage; further modified at Final stage*), mandating that group home staff alert the facility administrator to criminal activity known **or suspected to have occurred** at the facility or at a facility-sponsored activity, as well as arrests or criminal charges against the staff, themselves.
- Section 110, (*recommended at Proposed stage*), requiring emergency grievances be **acted on** rather than **heard** within eight hours, establishing a new definition for emergency grievance (set out in Section 10), and requiring that completion and documentation of grievances accord with facility procedures.

Part II – Administrative and Personnel

- Section 140, (*recommended at Proposed stage; further revised at Final stage*), authorizing group homes to conduct human research using residents only if such research complies with Chapter 170 of the board's regulations, amending the definition of human research to mirror Chapter 170's, and removing provisions addressing how information on residents must be maintained.
- Section 160, (*recommended at Proposed stage*), removing the mandate that certain facilities follow DHRM's minimum entry-level qualifications.
- Section 165, (*recommended at Proposed stage*), clarifying that TB risk assessments must be completed and evidenced on an assessment form containing the elements on VDH's form and limiting the individuals who may interpret the assessment results. The proposal makes similar changes to Section 1210, which addresses TB screenings for residents.
- Section 180, (*recommended at Proposed stage*), prohibiting employees hired under the "fingerprint exception" from working directly with residents until all required background checks have been satisfied. Sections 180 and 290 also prohibit group homes from hiring employees or contractors or taking on volunteers who have been convicted of certain barrier crimes listed in [§ 19.2-392.02](#) of the Code.
- Sections 190 and 300, (*recommended at Proposed stage*), eliminating the requirement that group home staff address population control during employee and volunteer orientation.
- Section 200 and 210, (*recommended at Proposed stage*), removing the mandate that initial and annual training accord with the provider's training plan.
- Section 210, (*recommended at Proposed stage; further amendments at Final stage*), replacing the annual 40-hour training requirement for certain direct care and direct supervision staff on specified topics with a requirement to receive an unspecified volume of training in those topics and 15 hours of additional training in other topics. The proposal also requires that refresher training applicable to medication administrators review the requirements for medication administration set out in Section 1280.
- Section 250, (*recommended at Final stage*), expanding the notification mandate so that staff who possess driver privilege cards and are responsible for transporting residents also must comply with this section.
- Section 310, (*recommended at Proposed stage*), adding personnel records for contractors to the list of records that must be maintained and eliminating the requirement that facilities retain annual performance evaluations in the employee's personnel record. The proposal also clarifies that personnel records of interns may be limited to the required background checks and requires the facilities to maintain all such personnel records confidentially and securely.
- Section 330, (*recommended at Proposed stage*), making the facility's duty to keep separate health records on each resident mandatory rather than discretionary.

Part III – Physical Environment

- Section 360, (*recommended at Proposed stage*), authorizing the facility administrator to identify which equipment and systems are critical and, therefore, subject to periodic testing, inspection, and maintenance.
- Section 400, (*recommended at the Final stage*), simplifying the required equipment-to-resident ratios such that facilities constructed before July 1, 1981, will require one toilet, hand basin, and shower or tub for every eight residents, and facilities constructed on or after July 1, 1981, will need to comply with a 1:4 ratio.
- Section 410, (*recommended at the Final stage*), adding language to clarify that while male and female residents generally require separate sleeping rooms, staff may conduct a case-by-case analysis of the resident's safety and management concerns when assigning residents to rooms.
- Section 440, (*recommended at Proposed stage; further amended at Final stage*), broadening the restrictions on smoking by imposing an absolute prohibition on resident possession, purchase, use, or distribution of tobacco products, nicotine vapor products, alternative nicotine products, hemp products intended for smoking, or similar products prohibited by law; and prohibiting staff, contractors, volunteers, interns, or visitors from such use in the facility.
- Section 470, (*recommended at Proposed stage*), removing the directive that animals maintained on the premises be housed a reasonable distance from sleeping and living areas.
- Section 490, (*recommended at Proposed stage; further amended at Final stage*), requiring the emergency preparedness and response plan to identify how to evacuate any individual in the facility who may require special accommodations rather than limiting the focus to residents with disabilities.

Part IV – Safety and Security

- Section 510, (*recommended at Proposed stage; further amended at Final stage*), striking the mandate that facilities that do not conduct resident searches have a procedure prohibiting them; requiring same gender pat-down and frisk searches; and removing authorization for staff to conduct strip searches and anal and vaginal cavity searches.
- Section 550, (*recommended at Proposed stage; further amended at Final stage*), directing group homes to provide third-party transporters of residents flagged for additional monitoring due to suicidal behavior or other special medical needs with a DJJ-approved form identifying pertinent information necessary for the resident's safe transportation.

Part V – Residents' Rights

- Section 560, (*recommended at Proposed stage*), removing the qualifier that facilities may not place residents **alone** in a locked room, instead imposing an absolute prohibition on confining residents in locked rooms, regardless of whether they are alone or with others.
- Section 565, (*recommended at Proposed stage*), specifying that the assessment needed to determine whether a resident is a member of a vulnerable population must occur immediately upon a resident's admission.
- Section 570, (*recommended at Proposed stage*), providing that the resident's mail referenced in this section includes email and specifying where first class letters and packages received for transferred or released residents must be forwarded.
- Section 590, (*recommended at Proposed stage*), removing the facility's obligation to make visitation procedures available to "other interested persons," in addition to the resident and parent or legal guardian.
- Section 620, (*recommended at Proposed stage*), replacing the drought-related exceptions to the directive that facilities allow residents an opportunity to shower daily with a more generalized exception that applies if there is a documented emergency.
- Sections 650 and 1000, (*recommended at Proposed stage*), allowing IL programs exceptions from certain nutrition-related provisions.
- Section 680, (*recommended at Proposed stage*), adding requirements to ensure the safety of residents during overnight recreational trips and incorporating many of the requirements formerly applicable to wilderness programs.

- Section 700, (*recommended at Proposed stage*), requiring the facility to obtain written permission from the **parent** or legal guardian **and the resident** before using the resident in its fundraising activities.

Part VI – Program Operation

- Section 730, (*recommended at the Proposed stage*), replacing the provider with the referring party as the entity responsible for completing the application for admission into the facility.
- Sections 750 and 780, (*recommended at the Proposed stage*), removing the language regarding self-admissions to shelter care facilities. The proposal also removes this reference from the definition of emergency admission.
- Section 800, (*recommended at the Proposed stage*), repealing this section that prohibits group homes from placing residents outside the facility before obtaining a placing license from DSS.
- Section 860, (*recommended at the Final stage*), excusing shelter care facilities from having to complete individual service plans for residents and requiring such programs, instead, to identify service objectives for each resident within 72 hours of admission.
- Section 890, (*recommended at Proposed stage*), removing the directive that the department approve procedures related to positive relationships with facility neighbors.
- Section 900, (*recommended at Proposed stage*), eliminating facility discretion to allow residents to visit the homes of staff members, in favor of an absolute prohibition.
- Section 910, (*recommended at the Proposed stage*), repealing the provision prohibiting direct care staff from taking on nondirect care responsibilities if they interfere with direct care duties.
- Section 920, (*recommended at Proposed stage*), allowing IL program staff to leave the facility temporarily to attend to a resident offsite in an emergency in certain situations.
- Section 930, (*recommended at Proposed stage*), increasing the required staff-to-resident ratios from the current 1:10 to 1:8 and expressly authorizing the facility administrator to determine appropriate staffing ratios for off-campus trips, provided the ratios do not fall below the 1:8 directive; striking the current 1:15 staff-to-resident ratio mandate in IL programs; and striking the requirement to have one direct care staff on duty for every 30 residents in facilities on every floor where residents are sleeping.

Part VII – Work Programs

- Section 950, (*recommended at Proposed stage*), moving the requirements in this section to a new Section 905, eliminating the requirement that work assignments in group homes accord with the resident's individual service plan, and striking the provision requiring parents to consent to such work assignment and applicable rates of pay.

Part VIII – Independent Living Programs

- Section 970, (*recommended at Proposed stage*), replacing the board with the facility administrator as the entity authorized to approve the materials and curricula for IL programs, and eliminating the facility's obligation to use a department-approved assessment tool to assess living skills for residents in IL programs.
- Section 980, (*recommended at Proposed stage*), removing the directive to have trained staff administer the assessment tool currently required in Section 970.
- Section 1000, (*recommended at Proposed stage*), removing as impractical the requirement that IL programs ensure adequate nutrition of residents by maintaining menus of meals on file.

Part IX – Wilderness Programs

- Sections 1010 through 1070, (*recommended at Final stage*), repealing the sections addressing wilderness programs because such programs are regulated by DSS.

Part X – Family-Oriented Group Homes

- Section 1080, (*recommended at Final stage*), moving various requirements to Section 1100 so that the provisions are imposed outright rather than mandated for inclusion in procedures.
- Section 1080, (*recommended at Proposed stage*), striking the provision that gives FOGs the discretion to determine the notification requirements for serious incidents, and instead, requiring that FOGs comply with the incident reporting requirements in Section 90.
- Section 1100, (*recommended at Proposed stage*), requiring FOGs to conduct and document inspections on smoke alarm devices at least monthly and directing every bed in a FOG to have mattresses, pillows, linens and similar items, cleaned once every seven days.
- Section 1100, (*recommended at Proposed stage; further amended at Final stage*), subjecting FOGs to several additional regulatory provisions currently applicable to other nonsecure residential facilities.

Part XI – Respite Care

- Sections 1120 through 1140, (*recommended at the Proposed stage*), repealing these provisions addressing respite care facilities because the department does not regulate such facilities. Other sections addressing respite care facilities in this chapter also are removed (§§ 1170(C) and 1250(D)).

Part XII – Health Care Services

- Section 1220, (*recommended at Proposed stage*), requiring residents admitted into facilities under emergency admission processes to receive a physical within 90 days after the emergency admission, rather than 30 days.
- Section 1260, (*recommended at Proposed stage*), requiring group homes to maintain first aid kits in facility vehicles as well as in the facility.
- Section 1270, (*recommended at Proposed stage*), allowing an exception to the rule requiring one of certain identified individuals to accompany residents being transported away from a group home for outside medical treatment. The exception permits facilities to send a staff member to the medical facility as soon as reasonably possible if having staff immediately accompany the resident would jeopardize resident or staff safety in the facility.
- Section 1280, (*recommended at Proposed stage*), modifying the definition of medication incident (now in Section 10) by excluding from the list of such incidents occasions when facilities fail to administer medication due to repeated, unsuccessful attempts to obtain the medication.

Part XIII – Behavior Support Management

- Section 1300, (*recommended at Proposed stage*), removing the qualifier that staff's review and preparation for implementing a resident's behavior support plan shall occur prior to working alone with an assigned resident.
- Section 1310, (*recommended at Proposed stage*), striking the mandate that facilities base their use of timeout and the frequency of resident checks during timeout on the resident's chronological and developmental levels. Instead, the proposal requires that the facility evaluate whether the resident is prepared to be released from timeout during each 15-minute check.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The amendments proposed as part of this regulatory action seek to enhance the safety and well-being of residents and staff in DJJ-regulated nonsecure juvenile residential facilities, thereby benefiting the public. The heightened monitoring requirements proposed in Section 935 and increased staffing protocols will ensure that residents are accounted for and may reduce the likelihood of injuries or other incidents. Imposing notification requirements on facility staff when external parties are transporting certain residents off-site will put such parties on notice that additional monitoring may be warranted. Expanded smoking prohibitions will reduce the likelihood that tobacco, nicotine vapor products, and other similar products will fall into the hands of residents, for whom possession is unlawful. These changes are expected to benefit the department and the Commonwealth to the extent that more effective programming in the community decreases the likelihood of commitment to the department, additional interactions with the court system, or recidivism upon release.

A handful of amendments may impose additional burdens on affected group homes or department staff, but the additional protections resulting from these amendments are expected to outweigh any burdens to facility and department staff.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There are no changes to information previously reported at the Proposed stage.

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

Other State Agencies Particularly Affected

No changes were made to previously reported information.

Localities Particularly Affected

At the time the Proposed stage was filed, the department regulated 16 group home facilities operated by local governments or local commissions. The department now regulates 14 group homes. No other changes were made to previously reported information.

Other Entities Particularly Affected

No changes were made to previously reported information.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency’s response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

The department received no public comments following the publication of the Proposed stage either through the Virginia Regulatory Town Hall or submitted directly to the department.

Detail of Changes Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements
41-10	N/A	Definition of direct supervision: Minor nonsubstantive changes were made at the Proposed stage, but the crux of the definition, addressing staff working with residents outside the presence of direct care staff, was maintained.	*At the final stage, the definition was amended to mean instances in which staff work directly with and maintain the safety, care, and well-being of residents.	This change is intended to clarify that direct supervision is not limited to instances when staff are supervising residents outside the presence of direct care staff. The amendment is consistent with language elsewhere in the regulation and is not expected to have an additional impact.
41-10	N/A	Definition of resident: Minor technical changes were made at the Proposed stage, but the substance of the definition, describing individuals legally or formally placed in a juvenile residential facility, was retained.	At the final stage, the definition was amended to capture individuals who are placed in a juvenile residential facility pursuant to a court order, shelter care order, or through the planned admission process.	This change is intended to clarify existing practices. Residents are placed by court order, shelter care order, or through a planned admission. The change will have no additional impact.
41-10	N/A	Definition of weapon At the Proposed stage, the “weapon”	At the final stage, the definition was amended to reference	The current list of weapons is a truncated version of the weapons

		definition, which included an inexhaustive list of examples, such as pistols, revolvers, and switchblades, was moved from § 540 to § 10.	the statutory list of weapons under § 18.2-308 of the Code.	enumerated under § 18.2-308. Removing this list and adding the Code reference is a technical change intended to prevent the department from having to modify its weapon definition if changes are made to § 18.2-308 of the Code. The change will have no additional impact.
41-20	N/A	N/A	At the final stage, the proposal clarifies the scope of the chapter by explaining that juvenile residential facilities licensed or regulated by other state agencies and housing direct care commitments are not subject to this chapter.	Occasionally, the department has placed youth committed to DJJ in residential treatment centers and other nonsecure facilities licensed by other agencies. The proposal clarifies that these programs are not subject to this chapter. This is a clarifying change consistent with current practices and will have no additional impact.
41-90	N/A	(B) At the Proposed stage, in addition to certain specified serious events, the provider had to notify the director or the director's designee within 24 hours of all other situations required by the regulatory authority.	*At the final stage, this provision was removed in its entirety.	This provision could potentially violate the provision prohibiting certain incorporation by reference in accordance with 1VAC7-10-140 and is unnecessary considering the board's regulatory authority to identify serious incidents.
41-105	N/A	(A) At the Proposed stage, staff had to notify the facility administrator of all known criminal activity suspected to have occurred at the facility or a facility-sponsored activity by residents or facility staff.	(A) At the final stage, the proposal was modified so that staff will need to report all criminal activity known or suspected to have occurred in such areas by staff and residents, and *under a new subsection (B), to self-report to the facility administrator their own arrests or criminal charges.	The proposed changes are intended to enhance safety within these facilities by ensuring that the facility administrator is aware of actual or alleged criminal activity of staff and can address such issues accordingly.

N/A	41-115	N/A	*The proposal adds a new section directing providers to take reasonable steps to ensure that residents and parents or guardians with limited English proficiency or conditions affecting communication understand any material required to be distributed or accessible and can communicate concerns, issues, and questions.	The regulation currently contains several sections that direct staff to provide information to residents or their parents or guardians but do not impose any additional requirements to ensure that the recipients, particularly those with limited English proficiency or conditions affecting communication, understand the information being communicated. The proposal will provide a mechanism for ensuring information is communicated effectively.
41-140(B)	N/A	(Former B) At the Proposed stage, information on residents (presumably garnered from human research) had to be maintained in accordance with the current chapter's provisions for maintaining resident records and had to remain confidential in accordance with applicable state laws and regulations. (Former C) No changes were made to this subsection at the Proposed stage. The provider was authorized to require periodic progress and formal final reports of research projects.	(Former B) *The final proposal removes subsection B in its entirety so that the subsection no longer addresses how information on residents involved in human research shall be maintained. (Former C) *The final proposal modifies this subsection to allow the provider to make requests for such progress reports through the department, which is responsible for overseeing the human research process pursuant to Chapter 170.	(Former B) Because the researchers, themselves, are responsible for administering human research, group homes should not have access to information collected as part of these research projects Given that the requirement applies to researchers rather than group home staff, the provision need not be included in the group home regulation. (Former C) This proposal is intended to align with the current process for human research activities as set out in Chapter 170.
41-200	N/A	(B) All direct care staff and certain staff who directly supervise residents were required to complete initial training in several specified topics, including, the	*The final proposal removes the reference to mechanical restraint training.	Mechanical restraints are prohibited in nonsecure juvenile residential facilities pursuant to 6VAC35-41-560(15), thus obviating any need to reference mechanical restraint training. As this

		facility's behavior intervention procedures, with physical and mechanical restraint training required as applicable to the individual's duties. No changes were made to this subsection at the Proposed stage.		training is not occurring in these facilities, this change will have no impact.
41-210	N/A	(B, F) At the Proposed stage, certain staff were no longer required to receive 400 hours of annual training in various specified topics, and instead, had to receive an unspecified volume of training hours in those topics and 15 hours of additional annual training in other topics.	The final proposal adds language in subsection F clarifying that the 15 hours of required annual training applies to direct care staff and staff who directly supervise residents while providing services, excluding behavioral health and health care contractors.	This amendment is intended to clarify the change made at the Proposed stage and will have no additional impact.
41-230	N/A	At the Proposed stage, a written code of ethics had to be available to all employees. No changes were made at this stage.	*The final proposal makes a minor edit to require that facilities make the code of ethics readily accessible to employees.	This could be perceived as a more stringent requirement intended to ensure that staff have immediate access to the code of ethics, but the amendment is not likely to require any changes in practice.
41-250	N/A	Staff whose duties may require resident transportation are required to maintain a valid driver's license and report changes in the status to the facility administrator or designee. Minor style changes were made at the Proposed stage.	*The final proposal expands this provision to apply to driver privilege cards, as well as driver's licenses.	This change seeks to acknowledge driver privilege cards, which provide a mechanism for non-US citizens to operate a motor vehicle lawfully in Virginia pursuant to Code of Virginia § 46.2-328.3. This change is intended to clarify that individuals with these privilege cards are authorized to transport residents and subject to the same reporting obligations as staff with driver's licenses.
41-400	N/A	(B, C) Facilities certified before July 1, 1981, shall have one	*At the Final stage, these provisions were amended to require	It is the department's understanding that all board-regulated

		toilet, hand basin, and shower or tub for every eight residents. Buildings constructed or structurally modified after July 1, 1981, and facilities certified after December 28, 2007, shall have one toilet, hand basin, and shower or tub for every four residents. No changes were made to these provisions at the Proposed stage.	that all juvenile residential facilities constructed before July 1, 1981, must comply with the 1:8 ratio and all facilities constructed or structurally modified on or after July 1, 1981, shall comply with the 1:4 ratio.	nonsecure juvenile residential facilities meet the 1:4 staff-to-equipment ratio; therefore, this change will have no impact on existing nonsecure residential facilities.
41-410	N/A	(A) At the Proposed stage, males and females were required to have separate sleeping rooms rather than separate sleeping areas.	The final proposal retains the modified language requiring males and females to have separate sleeping rooms but gives providers discretion to assign sleeping rooms based on a case-by-case analysis of whether a placement would ensure a resident's health and safety or present management or security problems.	The added language in the proposal will give facilities flexibility to comply with PREA's directive to use a case-by-case approach in determining placement and sleeping arrangements for transgender and intersex residents.
41-440	N/A	At the Proposed stage, residents were prohibited from possessing, purchasing, using, or distributing tobacco products or nicotine vapor products. The proposal identified a list of tobacco products and vapor products subject to these restrictions and prohibited staff, contractors, volunteers, interns, or visitors from using these items in the facility or its premises.	The final proposal adds to the categories of restricted items, alternative nicotine products and hemp products intended for smoking. Additionally, it restricts staff use of these items in areas within the facility and no longer includes the facility's premises. Finally, rather than listing examples of prohibited items, the proposal references Code § 18.2-371.2, which defines each of these categories.	These additional changes help to define the restricted items more clearly and will prevent the board from having to amend the regulation should the legislature expand or narrow these categories.
41-510	N/A	(A) At the Proposed stage, facilities were required to have	(A) *The final proposal removes the requirement that	(A) Imposing requirements outright rather than directing

		<p>procedures that included specifically mandated provisions governing searches. (Former B) Facilities that did not conduct resident searches needed a procedure prohibiting them. (Former C) Pat-down and frisk searches needed to be conducted by personnel of the same sex as the resident being searched, except in emergencies.</p>	<p>facilities include specific provisions in their procedures addressing searches, instead, imposing the provisions outright. (B) *The final proposal removes all of subsection B directing facilities that do not conduct resident searches to have a procedure prohibiting them. (C) - *Finally, the proposal modifies former subsection C to require pat-down and frisk searches be conducted by trained personnel of the same gender as the searched resident.</p>	<p>facilities to include the requirements in their procedures means that DJJ can assess compliance with the requirements and helps to ensure that the requirements are satisfied. (B) Currently, all board-regulated group home facilities conduct resident searches. Therefore, striking subsection B will have no impact on existing facilities. To the extent that a facility that currently conducts such searches decides to abstain from this practice in the future, the facility would no longer be required to establish a procedure prohibiting such searches. (C) Using the language "gender" is consistent with the requirements of the Prison Rape Elimination Act, which currently prohibits cross-gender searches. Assuming DJJ-regulated group homes are compliant with PREA, they will not need to change their practices to achieve compliance.</p>
41-550	N/A	<p>At the Proposed stage, a new subsection C was added requiring the facility to provide third parties transporting residents who have been flagged for additional monitoring due to recent suicidal behavior or special medical needs with a DJJ-approved form identifying information concerning the need for additional monitoring if</p>	<p>*At the Final stage, the new subsection C was modified to require facilities to provide the form to any party transporting residents who have been so flagged, even if the transporter is the resident's parent or legal guardian. The final proposal also allows facilities to use a form containing the elements of the DJJ-approved form as an</p>	<p>This change acknowledges the possibility that parents or legal guardians of residents flagged for suicidal behavior or special medical needs may not be aware of such concerns regarding residents and enhances the safety of such residents while being transported. Allowing facilities to use their own forms containing the elements on DJJ's form may reduce some of the</p>

		reasonably necessary for the resident's safe transportation and supervision. Facilities were excused from this requirement if the transporter was the resident's parent or legal guardian.	alternative to DJJ's form.	burden associated with establishing a new form.
41-680	N/A	This section currently imposes several requirements regarding recreational activities in nonsecure juvenile residential facilities. (D) At the Proposed stage, facility administrators were required to ensure that whenever residents attended overnight, offsite recreational trips, that a telephone was in each area where residents sleep or participate in programs. (F) The proposal exempted formal wilderness programs addressed in §§1010 through 1070 from these requirements.	(D) *The final proposal modified the language to require the telephone to be accessible in such areas rather than located in such areas. (F) The final proposal removes the reference to the formal wilderness program provisions in §§1010 through 1070.	(D) The change to subsection D is intended to clarify that the phone need not be physically located in the area in question so long as it is accessible. (F) DSS licenses wilderness programs; therefore, the board has proposed repealing these provisions at the Final stage.
41-860	N/A	This section addresses requirements for individual service plans. No substantive changes were made at the Proposed stage.	*The final proposal adds a new subsection H excusing shelter care facilities from having to comply with these provisions and instead directing them to identify service objectives for each resident and place them in the resident's file within 72 hours of admission.	This change is intended to resolve concerns that youth in shelter care facilities may have shorter lengths of stay, and facility staff may not have sufficient time to develop a complete individual service plan and comply with all additional requirements regarding plan reviews.
41-1010 through 1070	N/A	At the Proposed stage, the department sought to make numerous changes to the wilderness program provisions contained in Part IX	At the Final stage, all wilderness program provisions in Part IX (§§1010 through 1070) are repealed, along with the proposed definition	Currently, DSS regulates wilderness programs, thereby eliminating the need for these provisions. This is a clarifying change that will

		(§§1010 through 1070) to distinguish between formal wilderness programs and programs that occasionally take residents offsite for wilderness activities and to impose new requirements that would enhance safety for residents engaging in these activities. The proposal also defined wilderness programs.	for wilderness programs, added to § 10.	have no additional impact.
41-1080; 41-1100	N/A	At the Proposed stage, in accordance with § 1080, FOGs were required to have written procedures that addressed nine specific topics and imposed various requirements. Among these, the procedures needed to: 1) prohibit certain individuals from sharing sleeping rooms depending upon age; 4) require preparation of an individual service plan within 30 days of admission or 72 hours for shelter care facilities; and 10) ensure that firearms and ammunition are secured to prevent unauthorized access by juvenile residents.	At the Final stage, the proposal modifies the catchline to clarify that this section addresses written procedures for FOGs. The final proposal then moves to § 1100 the aforementioned provisions that direct facilities to have procedures preventing residents of certain ages from sharing sleeping rooms, directing staff to prepare the applicable treatment plan for residents, and requiring FOGs to ensure that firearms and ammunition are secured. The final proposal also modifies the language to require shelter care FOGs to prepare a document identifying service objectives for residents within 72 hours of admission instead of a service plan.	Moving these requirements to § 1100 means that the provisions will be imposed outright rather than mandated for inclusion in procedures. The department will be able to monitor whether applicable facilities are satisfying these requirements, which may enhance compliance.
41-1110	N/A	At the Proposed stage, this section listed several additional sections of the regulation applicable to FOGs.	The proposal extends the sections that will apply to FOGs to include the newly established § 115, which will require	This change is intended to add protections to ensure that residents in FOGs and their parents, and guardians have equal access to and an

			facilities to take reasonable steps to ensure that residents and parents or guardians who lack English proficiency or have other conditions that impede communication understand the material and can communicate their concerns.	understanding of important information they receive from the FOG provider.
41-1240	N/A	At the Proposed stage, the facility's written procedures had to provide for a suicide prevention and intervention program developed in consultation with a qualified medical or mental health professional and for all direct care staff to be trained in the implementation of the program in accordance with the chapter's initial and retraining provisions.	The final proposal removes the reference to written procedures and imposes these requirements outright as regulatory mandates.	These changes will give the department the authority to assess whether facilities have programs in place that meet these requirements rather than simply determining whether the facility's procedures comply with this mandate.
41-90; 41-105; 41-490; 41-550; 41-565; 41-680; 41-710; 41-890; 41-920; 41-1190; 41-1210; 41-1270.	N/A	At the Proposed stage, these sections imposed requirements on the "facility."	The final proposal replaces all such references with "appropriate facility staff," "facility staff," "facility administrator," or "provider."	These nonsubstantive changes are intended to convey the fact that staff and administrators are typically responsible for carrying out these requirements rather than the facility itself. These changes are not expected to have an additional impact.

Detail of All Changes Proposed in this Regulatory Action

List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
N/A	N/A	Current Title of Chapter: Regulation Governing Juvenile Group Homes and Halfway Houses	Updated Title of Chapter: Regulation Governing Juvenile Group Homes and other Nonsecure Juvenile Residential Facilities
41-10	N/A	Definitions: The terms currently defined in this section include the following: annual (<i>within 13 months of previous occurrence</i>); board (<i>of juvenile justice</i>); case record (<i>resident and family's information</i>); contraband (<i>prohibited items or items acquired through unapproved channels or in excess of prescribed amounts, or that may jeopardize safety</i>); department (<i>of juvenile justice</i>); direct care staff (<i>staff primarily responsible for resident safety, care, and well-being and implementing the behavior management program</i>); direct supervision (<i>staff working with residents outside the presence of direct care staff</i>); director (<i>of the department</i>); emergency (<i>unexpected occurrence demanding immediate action, excluding employee time off or other anticipated situations</i>); facility administrator (<i>individual responsible for regular on-site management and operation of the facility</i>); family-oriented group home (<i>private home for residents upon placement by lawful placing agency</i>); group home (<i>community-based, home-like juvenile residential facility, excluding home of operator and</i>	The <i>Form, Style, and Procedure Manual for Publication of Virginia Regulations</i> directs state agencies to place all definitions at the beginning of the chapter as the first numbered section. The following terms defined in other sections of the regulation were moved to §10 and may have been revised slightly for style: aversive stimuli (<i>560 – forces applied to a resident that are harmful or noxious</i>); behavior management (<i>1290 – methods employed to help a resident achieve positive behavior and address a resident's inappropriate behavior in accordance with written procedures</i>); emergency admission (<i>780 – unplanned or unexpected admission of a resident in need of immediate care</i>); health care record (<i>1150 – complete record of medical screening and examination information</i>); health care services (<i>1150 – preventive and therapeutic actions for the resident's well-being</i>); health-trained personnel (<i>1150 – person trained by licensed health care provider to perform specific duties</i>); human research (<i>140 – systematic investigation using human subjects designed to develop or contribute to generalized knowledge</i>); independent living program (<i>960 - director-approved program that gives residents skills to become self-sufficient adults</i>); legal mail (<i>570 -</i>

	<p>including halfway house, that does not exceed board-approved capacity); individual service plan (written plan of action to meet the needs of a resident); juvenile residential facility/facility (facility, excluding JCCs and JDCs, requiring certification where 24-hour-per-day care is provided to residents separated from their legal guardians); living unit (living space where a group of juvenile residential facility residents resides); on duty (period when employee is responsible for the direct supervision of residents); parent or legal guardian (certain biological or adoptive parents, certain judicially appointed legal guardians, and persons exercising rights and responsibilities of legal custody by delegation from biological or adoptive parent); placement (assistance to a placing agency, parent, or legal guardian in locating and moving a resident to a juvenile residential facility); placing agency (person, group, court, CSU, or agency licensed or authorized to place residents in a juvenile residential facility or a local board of social services with such authority); premises (tracts of land on which a juvenile residential facility is located and the buildings on the land); provider (person, entity, etc., to whom a certificate is issued and who is legally responsible for complying with statutory and regulatory requirements relating to the facility); regulatory authority (the board or department if designated by the board); resident (person legally or formally placed in or admitted to a juvenile residential facility for supervision, care, training, or treatment on a 24-hour-per-day basis); rules of conduct (list of juvenile residential facility's rules); shelter care facility (facility or emergency shelter providing a</p>	<p>written material sent to or received from a designated class of correspondents defined in written procedures); medication incident (1280 – error administering a medication to a resident excluding resident refusal of appropriate medication); physical restraint (1320 –physical intervention to prevent an individual from moving); rest day (920 – minimum 24-hour period when staff excused from performing duties regarding facility operations); timeout (1310 – behavior management technique program component which requires a resident to move to a specific location away from a source of reinforcement); volunteer/intern (270 - individual or group voluntarily providing goods and services without competitive compensation); vulnerable population (565 - resident assessed reasonably likely to be exposed to the possibility of attack or harm); and weapon (540 – provides a specific list of weapons, presumably derived in part from the list of weapons enumerated in Code of Virginia § 18.2-308, including firearms, various knives, certain flailing instruments, and throwing stars or oriental darts).</p> <p>Substantive revisions were made to existing terms, as outlined below:</p> <p>Direct supervision – *Amended to remove the limitation that direct supervision occurs only outside the presence of direct care staff.</p> <p>Emergency admission – *Removed the exclusions for self-admissions to shelter care or court-ordered placements.</p> <p>Health-trained personnel: Replaced reference to “sick call,” a term not defined or used elsewhere in the regulation, with “outside medical visits,” for clarification purposes.</p> <p>Human research – *Amended to mirror definition for term in Chapter 170, Regulation Governing Juvenile Data Requests and Research Involving Human Subjects.</p> <p>Independent living program – *Amended to reflect the current</p>
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		<p><i>range of services for up to 90 days); and written (information is communicated in writing manually or electronically).</i></p>	<p>practice set out in Chapter 20 requiring the director’s instead of the board’s approval of these programs.</p> <p>Medication incident – Amended to clarify that only one of the five identified medication incidents is necessary to satisfy the definition.</p> <p>*Amended to exclude a facility’s failure to administer medication due to repeated unsuccessful attempts to obtain medication.</p> <p>Resident – Amended to clarify the process for placement in nonsecure juvenile facilities. Residents are placed by court order, shelter care order, or through a planned admission.</p> <p>Rest day – *Amended to allow staff to perform duties related to facility operations, such as training, on a rest day, provided duties do not involve supervision.</p> <p>Timeout – Amended to remove language indicating that timeout is a behavior management program component.</p> <p>Vulnerable population – Removed the list of examples of factors that may indicate a resident is “vulnerable.” The examples are retained in § 565.</p> <p>Weapon – Replaced specific lists of weapons with reference to <i>Code</i> § 18.2-308 and stun weapons in § 18.2-308.1.</p> <p>The following terms, not currently defined but recurring in this chapter, were added to the definitions section and defined to provide clarity:</p> <p>Contractor – Individual who contracts with a facility to provide services directly to a resident at least twice monthly and will be alone with the resident in providing services.</p> <p>Grievance – A resident’s written communication to report a wrong or cause for complaint, particularly involving unfair treatment.</p> <p>Legally authorized representative – (i) custodial parent; (ii) legal guardian; (iii) spouse unless divorce decree filed; or (iv) person authorized by law or regulation to consent. This definition mirrors the statutory definition in <i>Code of Virginia</i> § 32.1-162.16.</p>
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			<p>Planned admission – Resident admission following evaluation of an application and execution of a written placement agreement. This term replaces routine admission, referenced consistently throughout the chapter.</p> <p>Tuberculosis risk assessment – An assessment to determine whether a person requires a TB screening.</p> <p>Tuberculosis screening – Tests to determine whether TB bacteria are present in the body.</p> <p>Minor substantive revisions were made to the following definitions:</p> <p>Facility administrator – Amended to include the facility administrator’s designee, so that individual references to the designee can be stricken in §§ 250 and 1290.</p> <p>Group home – Amended to replace the board with the director as the individual authorized to approve group home capacity, strike the description of such facilities as home-like single dwellings, and remove the mandate requiring some group homes to house residents transitioning from direct care.</p> <p>Juvenile residential facility/facility – Amended to clarify that all such facilities are nonsecure. IL programs are added to the list of facilities under this definition. Halfway houses are removed from the list of juvenile residential facilities because they constitute a group home for these purposes.</p> <p>Living unit – Replaced references to “sleeping areas” in this definition with “sleeping rooms.”</p> <p>Routine admission – Stricken from §750 and replaced with the term, “planned admission.”</p> <p>Shelter care facility – Amended to clarify that these are nonsecure facilities.</p> <p>Minor, nonsubstantive amendments were made to the following terms: board, case record, contraband, department, director, emergency, family-oriented group home, individual service plan, living unit, parent or legal guardian, placement, placing agency,</p>
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			provider, regulatory authority, rules of conduct, and written.
41-20	N/A	Applicability: This section identifies the eleven parts that make up this chapter. Parts VII through IX apply only to the specific programs or facilities referenced (work programs, IL programs, wilderness programs, FOGs, and respite care facilities). The other parts apply to all juvenile residential facilities apart from FOGs	The proposal rearranges some of the parts and sections to reflect changes in the arrangement of the provisions (e.g., Parts VII, IX, and XI have been repealed). The section also strikes the reference to halfway houses and shelter care, as both types of facilities are captured in the proposed definition of group home. Finally, the proposal clarifies that nonsecure juvenile facilities licensed or regulated by other state agencies that house DJJ commitments are excluded from this chapter. These clarifying changes will have no additional impact.
41-30	N/A	Previous regulations terminated: This section outlines the regulatory chapters that were replaced when the department revised its regulations in 2014.	Repealed. These chapters were part of a previous regulatory iteration, and reference to them is no longer necessary. The change will have no additional impact.
41-40	N/A	Certification: (A) Facilities must comply with Chapter 20, which addresses certification of DJJ-regulated programs and facilities. (A)(3) Facilities must ensure that if they fail to comply with any of the regulatory provisions, such noncompliance does not pose an immediate and direct danger to residents.	(A) The proposal modifies the reference to certification regulations in Chapter 20 to mirror the title of the existing Certification Regulations. *(A)(3) The proposal strikes this vague provision that could be perceived as encouraging noncompliance with regulatory requirements. This change is not expected to significantly impact operations. Group homes are required to comply with applicable regulatory provisions unless a variance has been approved by the board. Removing the requirement to ensure that noncompliance does not endanger residents will not relieve group home staff of their regulatory obligation and will not prevent them from having to take corrective action should such noncompliance be discovered on audit or during a monitoring visit.
41-50	N/A	Age of residents: (A) Facilities may admit only residents who meet board-approved age limits. (B) Facilities may not admit residents above the certified age of capacity with some exceptions, including in instances where a discharge plan has been established. This prohibition does not apply to shelter care programs.	*(A) The proposal replaces the board with the director as the entity authorized to set the facility's age limits consistent with 6VAC35-20-75 . As this is consistent with existing regulations, the proposed change will have no additional impact. (B) The proposal eliminates some of the duplicative language in this section and clarifies that the exceptions are for residents who remain in the facility above the certified age (the proper

			reference) rather than the age of certified capacity (which is confusing). The proposal removes as unnecessary the exception regarding shelter care programs.
41-60	N/A	Relationship to the regulatory authority: Facilities must provide the board with whatever reports and information it needs to establish compliance with these regulations.	*The proposal mandates the submission of this information to the audit team leader, rather than the regulatory authority (board), consistent with the current mandate in 6VAC35-20-36 . Because this change tracks existing regulatory language, it will have no additional impact.
41-70	N/A	Relationship with the department: (A) When facilities adjust their administrative structures or hire a new facility administrator, the DJJ Director shall be notified within five working days. (B) Certain lawsuits against and settlements with the facility or governing authority shall be reported to the director or designee within 10 days.	(A) The proposal replaces “working” days with “business” days to mirror the language used elsewhere in this chapter. This change in terminology will have no additional impact. (B) The proposal clarifies that the 10-day requirement for reporting lawsuits and settlements are in business days. This clarification will have no additional impact. The proposal makes additional minor changes.
41-80	N/A	Variations: (A) Facility administrators may request variances from the board to excuse them from meeting or developing a plan of action for regulatory requirements, pursuant to the Certification Regulations.	(A) The proposal clarifies that variances are available only for noncritical regulatory requirements, as set out in the Certification Regulations. The proposal cites the full title of Chapter 20. (C) The proposal also adds a new subsection C that expands the scope of this section to address the director’s authority to issue waivers. The proposal amends the catchline to reflect this change. It also makes additional, nonsubstantive amendments. The proposed amendments are intended to closely mirror requirements in Chapter 20 and will have no additional impact.
41-90	N/A	Serious incident reports: (A) Within 24 hours after a “serious incident” occurs, the facility must notify the placing agency, the parent or legal guardian, or both, and the director or designee. (B) The provider shall notify the director or designee within 24 hours of such events, as well as all other situations required by the regulatory authority of which the facility has been notified.	(B) The proposal strikes the entirety of subsection B. The provision mandating notification of the events detailed in subsection A is duplicative and unnecessary. *The provision extending to “all other situations required by the regulatory authority could potentially violate the incorporation by reference provision in 1VAC7-10-140 and is unnecessary considering the board’s authority to identify “serious incidents” by regulation. The department is not aware of any instances in which the board identified additional serious

		<p>For such qualifying serious incidents, under subsection (D), the facility must prepare and maintain a written report that must be submitted to the director or designee containing, among other information (5) the name or identifying information of the person who made the report to the placing agency and the parent or legal guardian.</p>	<p>incidents required to be reported to the director in accordance with subsection B. Therefore, striking this language will have no additional impact. (New C) *The proposal modifies this subsection to require the facility to describe how the information was communicated (e.g., by telephone call, email, letter, etc.) to the placing agency and the parent or guardian, as part of the written report submitted to the director or designee. In addition, the proposal replaces the reference to “the facility” with “the facility administrator.” Various provisions in this chapter impose a requirement on the facility itself rather than the staff or individual responsible for carrying out the requirements. Because facilities are not persons, the proposal replaces each of these references with “the facility administrator,” “the provider,” or “the appropriate facility staff.” Other nonsubstantive changes to this section are not expected to have an impact.</p>
41-100	N/A	<p>Suspected child abuse or neglect (A) If there is a reasonable suspicion that a child is abused or neglected, the issue requires immediate reporting to the local DSS. (C) Suspected child abuse or neglect cases shall be reported and documented in accordance with the regulatory provisions addressing serious incident reports (§ 90).</p>	<p>(A) The proposal adds language allowing staff to report this information to the state DSS’s toll-free child abuse and neglect hotline. This is consistent with the language in § 63.2-1509; therefore, this change will have no additional impact. (C) The proposal clarifies that the cases necessitating a report are suspected cases of child abuse or neglect against a resident and do not extend to a child who is not under the custody or purview of the group home or similar facility. This change reflects current practices across facilities and is not expected to impact facility operations. The proposal makes several additional, nonsubstantive changes. The proposed changes reflected in this section are consistent with changes proposed to the Regulations Governing Juvenile Secure Detention Centers.</p>
41-105	N/A	<p>Reporting criminal activity (A) Staff must report to the facility administrator all known criminal activity committed by residents or staff, including physical or sexual abuse or sexual harassment.</p>	<p>(A) The proposal narrows this directive so that staff need report to the facility administrator only such criminal activity known or suspected to have occurred at the facility or at a facility-sponsored activity. This will eliminate the need to</p>

		<p>(B) The facility administrator must notify the appropriate persons or agencies, including law enforcement, child protective services and the department, as appropriate and applicable, of such suspected criminal violations.</p> <p>(C) The facility shall assist and cooperate with investigations for these complaints and allegations.</p>	<p>report staff criminal activity suspected to have occurred outside the facility.</p> <p>*(New B) The proposal adds a new subsection B requiring staff to self-report to the facility administrator arrests or criminal charges against such staff. This change is intended to enhance safety within these facilities by ensuring that the facility administrator is aware of actual or alleged criminal activity of staff.</p> <p>(New C) Currently, the provision requires that the department be notified of criminal violations by residents and staff as appropriate and applicable. The proposal rearranges the placement for this qualifying language to demonstrate that all criminal offenses need not be reported to child protective services (e.g., offenses that do not involve children).</p> <p>*The proposal also removes the current requirement that suspected criminal violations relating to the health and safety or human rights of residents be reported to the director or designee. This change will not impact the facility's duty to report all criminal offenses to the department, as required in the current regulation. Once notified, department staff can determine which offenses should be routed to the director.</p> <p>(New D) – The proposal replaces “the facility,” with “facility staff,” as described in the summary to § 90.</p>
41-110	N/A	<p>Grievance procedure:</p> <p>(A) Facilities must have written procedures requiring that residents be oriented and given continued access to a grievance procedure that meets several requirements, including the following: (A)(3) documented, timely responses to grievances, and the decision rationale; and (A)(7) hearing of emergency grievances within eight hours.</p> <p>(B) Each resident shall be oriented to the grievance procedure in an age or developmentally appropriate manner. (C) The facility's grievance procedures must be written in clear and simple</p>	<p>(A) This and numerous other provisions in this chapter direct facilities to include certain specific mandates in their procedures rather than imposing a direct regulatory requirement. *The proposal modifies the language in this subsection so that residents must be oriented to a grievance procedure that meets the specified requirements rather than directing the facility to have a written procedure to that effect. The proposal makes similar changes throughout the chapter. As a result, the Certification Unit will assess compliance with the actual requirement rather than assessing whether the procedures include the requisite provision.</p>

		<p>language and posted in an area that residents, parents, and legal guardians can access with ease.</p>	<p>(A)(3) *The proposal adds a requirement that grievance responses be completed and documented in accordance with facility procedures. This change is consistent with amendments proposed to the Regulations Governing Juvenile Secure Detention Centers.</p> <p>(A)(7) The term “emergency grievance” is not defined in the regulation or in the Certification Unit’s Compliance Manual. Thus, regulants have broad discretion to determine what types of grievances constitute emergencies, which could result in widely disparate treatment of residents across facilities. Rather than referencing “emergency grievances,” the proposal specifies that this subdivision applies to grievances posing an immediate risk of hardship or harm to a resident. This change will provide clarity to regulants. In addition, *the proposal requires that such grievances be acted on, rather than heard, within eight hours. Grievances of this nature arguably demand urgency, and this provision prevents the facility from hearing the grievance within the eight-hour period but extending the review or determination regarding the grievance well beyond the eight-hour period. While this change may impact facility resources depending on the volume and complexity of the grievances and the staff available to address the issues, the change will guarantee that such grievances are reviewed promptly.</p> <p>(B) The proposal requires the resident to be oriented to the grievance procedure in an age and developmentally appropriate manner. The use of the conjunction “or” in the current provision means the facility may elect not to orient residents according to their developmental levels, which may place some residents at a disadvantage if they lack a full understanding of the grievance process. The department currently considers the youth’s literacy level and disabilities in determining how the resident should be oriented.</p> <p>(C) *The proposal mandates that the grievance procedure also include the</p>
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			<p>express definition of grievance contained in § 10. This change seeks to ensure that residents are aware of the definition of grievance and can better identify the types of complaints or protests that may be grieved. Facilities may need to update their grievance procedures to include this language. These minor changes are not expected to have a significant impact on facility operations but will ensure that residents are aware of their rights and the process for addressing grievances.</p>
N/A	41-115	N/A	<p>Language and communications assistance: *The proposal adds a new section that directs providers to take reasonable steps to ensure residents, parents, or legal guardians with limited English proficiency, who are hard of hearing, or who have other conditions affecting communication understand any information required to be communicated under the regulation. This change is intended to add protections to ensure residents, parents, and guardians have equal access to and an understanding of important information they receive from the facility.</p>
41-120	N/A	<p>Responsibilities of the provider or governing authority: (A) The provider must identify the facility's governing authority that holds the certificate and must report changes in the authority's identity or corporate status to the director. (C) Facilities must implement written decision-making plans that require designation of a staff person with facility administrator qualifications to be responsible temporarily for facility operations.</p>	<p>(A) The proposal clarifies that the identification must be in writing and expands the recipients who must be notified of changes to include the director's designee. This is consistent with DJJ's longstanding interpretation and will have no additional impact. (C) The proposal clarifies that this temporary responsibility attaches in the absence of the facility administrator. This is a clarifying change that will have no additional impact.</p>
41-140	N/A	<p>Participation of residents in human research: (A) The provider must have procedures approved by its governing authority governing the review, approval, and monitoring of human research. Human research is a systematic investigation involving human subjects, designed to develop or contribute to general knowledge.</p>	<p>(A) The proposal authorizes facilities to allow the use of residents in human research in accordance with Chapter 170 of the department's regulations and Chapter 5.1 of Title 32.1 of the Code rather than the facility's procedures. The proposal amends the definition of "human research" to conform to the definition in Chapter 170 and moves the definition to § 10 of this chapter. *The proposal adds language explicitly prohibiting the</p>

		<p>(B) Information on residents gathered from human research shall be maintained in accordance with the regulatory provision addressing record maintenance, and all records and information related to the human research must remain confidential in accordance with applicable laws and regulations.</p> <p>(C) The provider may require the researcher to provide periodic progress reports regarding the research and a final report of completed projects.</p>	<p>testing of medicines or drugs for experimentation or research. This is consistent with existing or proposed restrictions contained in the regulations that govern JCCs and JDCs. These amendments will ensure that board-regulated facilities follow the same process as JCCs and JDCs when considering external proposals for human research on residents.</p> <p>(Former B) *The proposal strikes the existing subsection B in its entirety. This language addresses information gathered from human research, which would be conducted by the researcher rather than group home facility staff. Therefore, this provision is not necessary. Because the group homes are not the researchers subject to this provision, the department does not anticipate an impact on group homes resulting from this change.</p> <p>(New B) *The proposal modifies the former subsection C to allow the provider to make requests for such progress reports through the department, which is responsible for oversight of the human research process pursuant to Chapter 170. The department is not aware of any human research that has been conducted in group home facilities to date. Therefore, this change is not expected to have an impact.</p>
41-145	N/A	<p>Operational procedures: The facility’s operational procedures must be accessible to all staff.</p>	<p>The proposal clarifies that these procedures must be readily accessible to all staff. This change makes it clear that all staff must be able to access these procedures without difficulty or significant delay. This is consistent with similar language in the JDC regulations and is not expected to significantly impact facility operations.</p>
41-150	N/A	<p>Job descriptions:</p>	<p>The proposal makes minor style edits.</p>
41-160	N/A	<p>Qualifications:</p> <p>(A) Facilities exempt from the rules of the governing authority or a local government personnel office shall follow DHRM’s minimum entry-level qualifications.</p> <p>(C) Facilities must document contracts or staff’s expertise in providing educational, counseling, psychological, medical, or other</p>	<p>(A) *The proposal strikes this requirement, as DHRM does not have policies establishing minimum entry-level employee qualifications. This change will have no additional impact.</p> <p>(C) In order to simplify the language, the proposal requires facilities to document each contractor or employee’s expertise to provide the services needed to assist the residents. This is a clarifying change</p>

		services. Services must accord with the program description in its admission criteria.	intended to eliminate confusing language and is not expected to have any additional impact on facilities.
41-165	N/A	<p>Employee tuberculosis screening and follow-up:</p> <p>(A) On or before their start date at the facility, employees must submit screening results no older than 30 days that indicate whether they are free from communicable TB.</p> <p>(B) Each employee shall submit evidence of an annual evaluation of freedom from communicable TB.</p> <p>(C) Employees must undergo a subsequent TB screening or evaluation, as applicable, if: (1) they encounter a known case of infectious TB; or 2) they develop chronic respiratory symptoms lasting three or more weeks.</p> <p>(E) Any active case of TB that an employee or resident develops must be reported to the local health department in accordance with 12VAC5-90.</p>	<p>(A) *The proposal amends this provision by requiring each employee to have received a TB risk assessment evidenced by completion of an assessment form containing the elements on VDH's most recent assessment form. This will ensure that facilities are assessing staff or accepting documentation on forms that include the same fields and are gathering the same information. The proposal allows health-trained staff in the facility to administer the assessment but limits the authority to interpret its results to a physician, a physician assistant, a nurse practitioner, or registered nurse. This language is consistent with VDH-issued guidance from 2017.</p> <p>(B) The proposal requires the employee to submit annually a risk assessment indicating risk of TB exposure.</p> <p>(C) *The proposal requires employees to undergo a subsequent TB screening if the results of the initial annual risk assessment indicate that a subsequent screening is necessary. Language addressing employees who encounter infectious TB or develop chronic symptoms for three weeks has been moved to a new subsection D.</p> <p>(New D) *The proposal adds a new provision requiring employees who make contact with infectious TB or who develop chronic respiratory symptoms for three weeks to consult their local health department or a medical professional for additional screening.</p> <p>(New F) The proposal strikes the requirement to report active TB cases contracted by residents, as this section addresses TB assessments and screenings for staff. Resident screenings are addressed in § 1210. The proposal makes other style edits that will have no impact.</p>
41-180	N/A	<p>Employee and volunteer background checks.</p> <p>(A) To work in a facility, employees, as well as regular volunteers and contractors who</p>	<p>(A) The proposal removes the duplicative references to volunteers in this provision, as well as in the catchline. Background checks for volunteers are covered in § 290.</p>

		<p>will be alone with residents in performing their duties, must undergo fingerprint checks and a host of other background checks. (B) Facilities may hire employees pending the results of the fingerprint check if: (i) all other required background checks have been completed; (ii) the facility informs the applicant in writing that continued employment depends on the fingerprint check results; and iii) if this exception is utilized, such employees may not be alone with residents and may work only with residents when directly supervised by staff with fully completed background checks.</p>	<p>(B) *The proposal expands the restriction applicable to employees hired under the fingerprint exception by prohibiting them from working directly with residents until all required background checks are satisfied. Because the position was vacant previously, this amendment is not expected to have a significant, tangible impact on facility resources. It may, however, create some delays in getting new staff fully prepared to assume their facility duties. (E) The proposal also adds a new subsection E prohibiting DJJ-regulated juvenile residential facilities from hiring employees or contractors or taking on volunteers who have been convicted of any barrier crimes listed in § 19.2-392.02 of the Code, except as authorized under § 63.2-1726. As these statutory provisions reflect current law, this change will have no additional impact. The proposal makes additional technical changes that will have no impact.</p>
41-190	N/A	<p>Required initial orientation: (A) Employees must receive basic orientation on several topics, including security and population control before the end of their seventh workday at the facility.</p>	<p>(A) *The proposal removes the requirement that the orientation address population control. Population control is not a significant concern in nonsecure juvenile facilities; therefore, none of the board-regulated nonsecure facilities currently addresses this topic in orientation. Thus, this change will have no additional impact.</p>
41-200	N/A	<p>Required initial training: (B) No later than 30 days from their start date or before assuming direct supervision duties, staff who directly supervise residents, excluding behavioral health or health care contractors, must complete training in seven specified topics, including... (5) physical and mechanical restraint training as applicable to their duties. (D) Training must be required by and provided as appropriate to the individual’s job duties and accord with the provider’s training plan.</p>	<p>(B) *The proposal removes mechanical restraint training from this list. Mechanical restraints are prohibited in nonsecure juvenile residential facilities pursuant to 6VAC35-41-560(15), thereby eliminating the need for such training. This change is not expected to impact facility operations. (D) *The proposal strikes this provision in its entirety as unnecessary. A training plan is not required under the comparable regulations that govern juvenile detention or correctional centers, and the absence of a training plan will not prevent facilities from satisfying the training mandates in this section. While all group homes currently have training plans, the removal of this requirement is not</p>

			<p>expected to significantly impact facility operations.</p>
<p>41-210</p>	<p>N/A</p>	<p>Required retraining: (C) Direct care staff and staff who directly supervise residents while delivering services must complete at least 40 hours of training annually, including training in suicide prevention, child abuse and neglect, mandatory reporting, residents' rights, standard precautions, and behavior intervention procedures. This directive does not apply to medical and behavioral health contractors. (E) Employees responsible for administering medication must complete annual refresher training on medication administration. (F) Facilities must require and provide retraining as appropriate to the individual's job duties, and such retraining shall accord with the provider's training plan.</p>	<p>(C) *The proposal removes the obligation of such staff to complete 40 hours of training annually in the specified topics, in favor of a generic requirement that they receive an unspecified volume of training in the topics established in this subsection. The proposal indicates that such training shall be annual refresher training. In addition, such staff will be subject to the new requirements in subsection (F). (E) *The proposal establishes a new requirement that the refresher training include, at a minimum, a review of the components required in Section 1280. That section sets out the requirements for administering medication, including, for example, requiring medication administrators to: (i) be informed of known side effects for medication; (ii) administer medication in accordance with prescriber instructions; and (iii) maintain a medication administration record for medicines administered to residents. (F) Consistent with the changes to § 200, *the proposal removes the mandate that retraining accord with the provider's training plan. *The proposal also adds new language requiring facilities to ensure that direct care staff and staff who directly supervise residents (excluding behavioral services and medical service contractors) receive at least 15 hours of additional training, apart from the required retraining in the topics enumerated in subsection C. This additional language, in connection with the change in subsection C, will give facilities the discretion to determine the appropriate number of training hours that should be devoted to the current required topics and which additional topics need to be addressed as part of the 15 required hours. The new requirement is consistent with regulatory provisions applicable to staff in similar nonsecure group home facilities regulated by DBHDS and DSS and will help to ensure that training is tailored to the needs of the</p>

			individual staff and the facility. The proposal makes other, nonsubstantive edits with no additional impact.
41-220	N/A	Written personnel procedures:	The proposal makes a minor style edit.
41-230	N/A	Code of ethics: A written code of ethics shall be available to all employees.	The proposal makes a minor edit to require that facilities make the code of ethics readily accessible to employees. This is a more stringent requirement intended to ensure that staff have immediate access to the code of ethics, but the amendment is not expected to necessitate changes in practice or have a significant impact.
41-250	N/A	Notification of change in driver's license status: Staff whose job responsibilities may involve transporting residents shall report to the facility administrator or designee any change in their driver's license status including but not limited to suspensions, restrictions, and revocations.	The proposal modifies the language to address driver privilege cards, available under § 46.2-328.3 of the Code to non-US citizens who are otherwise ineligible to obtain a driver's license. *If these individuals are working in a group home and their duties may involve transporting residents, they shall be required to maintain their privilege cards and report any changes in their card statuses. This change is intended as a clarification to alert regulated entities to the existence of these driver privilege cards in case the absence of a driver's license is perceived as a barrier for certain positions involving resident transportation. The proposal makes additional edits for style. Of note, the proposal removes the "including, but not limited to" language consistent with 1VAC7-10-30 , which provides that, 'includes' means 'includes, but not limited to.' The proposal removes this and all similar references in the chapter. The change will have no impact.
41-260	N/A	Physical or mental health of personnel:	The proposal makes minor style edits.
41-270	N/A	Definition of volunteers or interns: This section exists solely to provide a definition for "volunteers and interns."	Pursuant to the <i>Style Manual</i> , the proposal moves all definitions, including the definition for "volunteers and interns," to the beginning of this chapter, rendering this section unnecessary. The entire section has been repealed. This formatting change will have no additional impact.
41-280	N/A	Selection and duties of volunteers or interns:	The proposal makes minor style edits.
41-290	N/A	Background checks for volunteers or interns: Currently, individuals who regularly	Much like the proposed changes made to § 180, the proposal adds a new subsection D prohibiting DJJ-regulated

		volunteer or intern in a facility and will be alone with a resident in performing their duties are subject to the same background requirements as employees in § 180.	juvenile residential facilities from taking on volunteers or interns who have been convicted of any barrier crimes listed in § 19.2-392.02 of the Code, except as authorized under § 63.2-1726 . These statutory provisions reflect current law; thus, this change will have no additional impact. The proposal makes several other minor changes that will have no impact.
41-300	N/A	Orientation and training for volunteers or interns: (A) Volunteers and interns working in juvenile residential facilities must receive basic orientation on several topics, including security and population control.	(A) The proposal removes population control as a required topic for basic orientation. Because facilities are not currently addressing this topic in orientation, this change will have no impact. The proposal makes several nonsubstantive changes for style, which will have no additional impact.
41-310	N/A	Personnel records: (A) Juvenile residential facilities must maintain separate, current, written or automated personnel records on each employee, volunteer, or intern who must complete a background check. (B) An employee's record must include the employee's annual performance evaluations, among other information. (D) The records of volunteers or contractual service providers may be limited to documentation of compliance with required background checks.	(A) The proposal adds contractors' personnel records to the list of records that must be maintained under this section. Pursuant to § 180 of the existing regulation, individuals who provide contractual services directly and regularly to a resident in a juvenile residential facility and who will be alone with the resident in performing these services must undergo the same background checks as required for employees, volunteers, and interns. This is consistent with language elsewhere in the regulation and is intended as a clarification. The proposal also removes the redundant reference to automated records because they are included in the definition of "written" in § 10. This change will have no additional impact. (B) *The proposal strikes the requirement to retain annual performance evaluations in the employee's personnel record. Retention of performance evaluations has no bearing on the health or safety of residents and need not be regulated. This change is consistent with changes proposed for other chapters and is not expected to have a significant impact. (D) The proposal corrects an omission in this subsection that fails to include interns among the list of individuals that are required to have only background checks in their personnel records. This change will have no

			<p>additional impact. The proposal also makes a conforming amendment to replace “contractual service provider” with “contractor,” because the latter term has been added to the definitions contained in § 10.</p> <p>(E) *Finally, the proposal adds a new subsection E to require these personnel records to be maintained in a secure location and kept confidential unless authorized. This is consistent both with the current requirements for residents’ records and the requirements imposed by the Department of Human Resource Management with respect to personnel records. This change will have no additional impact.</p>
41-330	N/A	<p>Maintenance of records: (A) Facilities must retain separate written or automated case records for each resident. (B) Facilities may keep separate health care records on each resident.</p>	<p>(A) The proposal strikes the option to retain automated case records, as the term “automated” is contemplated in the definition of “written” in § 10.</p> <p>(B) *The proposal makes the maintenance of separate health records on each resident mandatory rather than discretionary. The current language is inconsistent with federal law and with current facility practice. The proposal makes numerous additional changes for clarification, such as replacing references to “health records” with “health care records” to conform to existing definitions and amending the catchline to clarify that the records referenced in this section are residents’, and not personnel records. These and other minor nonsubstantive changes will have no additional impact.</p>
41-360	N/A	<p>Equipment and systems inspections and maintenance: (A) Designated staff must inspect, test, and maintain all safety, emergency, and communications equipment and systems. Testing must occur at least quarterly.</p>	<p>(A) The proposal adds language authorizing the facility administrator to identify which such equipment and systems are critical and to require only those items to be subject to the testing, inspection, and maintenance requirements of this provision. The proposal requires the facility administrator to develop written procedures for establishing, maintaining, reviewing, and testing such equipment. This is consistent with a similar proposed amendment to the regulations that govern juvenile detention centers and will give the facility administrator the discretion to</p>

			exclude from this recurring process equipment and systems that are not critical to facility operation or resident and staff safety. The proposal makes additional, nonsubstantive changes that will have no additional impact.
41-370	N/A	Heating and cooling systems and ventilation: (A) Heat must be maintained in resident-occupied rooms at no less than 68 degrees unless state or federal authorities mandate otherwise. (B) Though air conditioning or ventilating systems must be provided in all resident-occupied rooms when the temperature exceeds 80 degrees, the regulation does not allow for exceptions for conflicting federal or state mandates.	*The proposal amends subsection B to allow for an exception if federal or state mandates conflict with this requirement. This change is intended to conform to the language in the preceding subsection. The proposal is not expected to have additional impact.
41-380	N/A	Lighting: (A) Sleeping and activity areas in juvenile residential facilities must provide natural lighting.	The proposal replaces references to “sleeping areas” in this and other sections of the chapter with “sleeping rooms.” With some rare exceptions, the terms are used interchangeably throughout this chapter. These changes will clarify language and are not expected to have additional impact.
41-390	N/A	Plumbing and water supply; temperature: (C) Water temperatures should be maintained at 100 to 120 degrees.	(C) *The existing provision appears to make a recommendation rather than imposing a mandate. The proposal explicitly requires the maintenance of water temperatures at 100 to 120 degrees Fahrenheit and clarifies that the requirement applies to hot water temperatures. Because facilities currently treat this provision as a mandate, this change will have no additional impact.
41-400	NA	Toilet facilities: (B) Juvenile residential facilities shall have at least one toilet, hand basin, and shower or tub for every eight residents for facilities certified before July 1, 1981. (C) Such facilities shall have 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, and for facilities certified after December 28, 2007.	(B)-(C) *The proposal modifies the language to impose the 1:8 equipment-to-resident requirement for all facilities constructed rather than certified before July 1, 1981, and to require a 1:4 equipment-to-resident ratio for facilities constructed on or after July 1, 1981. It is the department’s understanding that all facilities currently comply with the 1:4 ratio; therefore, this change will have no additional impact. Other amendments are technical and will have no impact.

41-410	N/A	<p>Sleeping areas: This section sets out the requirements for sleeping areas and sleeping quarters in juvenile residential facilities. (A) – Males and females shall have separate sleeping areas.</p>	<p>(A) *The proposal retains this requirement but adds language authorizing the facility to make placement decisions based on a case-by-case analysis of whether a placement would ensure a resident’s health and safety or present management or security problems. This additional language will enable facilities to comply with the Prison Rape Elimination Act, which requires such a case-by-case analysis when making placement decisions for transgender and intersex residents. Additionally, the proposal replaces all references to ‘sleeping areas’ and ‘sleeping quarters’ in this section with ‘sleeping rooms,’ for the reasons explained in the § 390 summary. Although not expressly addressed in department supplemental guidance, ‘sleeping quarters’ and ‘sleeping areas’ are used interchangeably in this chapter. The proposal makes additional, nonsubstantive changes.</p>
41-440	N/A	<p>Smoking prohibitions: Facilities must prohibit smoking in living areas and areas where residents participate in programs.</p>	<p>*The proposal strikes this provision in its entirety and replaces it with a requirement that facilities prohibit residents from possessing, purchasing, using, or distributing tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking. These terms are all defined in § 18.2-371.2 of the Code. This change is needed to ensure that residents are not accessing or using any of these products in the facility. The change is consistent with legislation enacted during the 2019 General Assembly Session and effective July 1, 2019, which increased the minimum age for the lawful purchase or possession of tobacco products, nicotine vapor products, and alternative nicotine products from 18 to 21 years (except for active-duty military personnel). The proposal also prohibits staff, contractors, volunteers, interns, or visitors from using these products in the facility. This change will help prevent residents from accessing these products.</p>
41-450	N/A	<p>Space utilization: Every juvenile residential facility must have</p>	<p>The proposal moves this provision based on the assertion that recreation materials are more relevant to § 680’s</p>

		indoor recreation areas with appropriate recreation materials.	provisions, which address recreation. The proposal makes other technical changes, none of which will have additional impact.
41-460	N/A	Maintenance of the buildings and grounds	The proposal makes minor style edits.
41-470	N/A	Animals on the premises: Animals maintained on the premises must be housed a reasonable distance from sleeping, living, eating, and food preparation areas, and a safe distance from water supplies.	To give facility administrators greater discretion to allow pets, animal training, or animal therapy services within the facility, the proposal removes the mandate that animals maintained on the premises be housed a reasonable distance from sleeping and living areas. Facilities will need to continue to house such animals a reasonable distance from eating and food preparation areas and a safe distance from water supplies.
41-490	N/A	Emergency and evacuation procedures: (A)(4)(i) Every juvenile residential facility provider must have a written emergency preparedness and response plan that provides for, among other requirements, a planned, personalized means of effective egress for non-ambulatory residents. (B) The provider must develop emergency preparedness and response training, which must address implementing evacuation procedures, including evacuating residents with special needs (i.e., deaf, blind, nonambulatory).	(A)(4)(i) The proposal amends this provision so that the plan must provide a means of effectively evacuating individuals in the facility who may require special accommodations if an evacuation becomes necessary. Facilities will need to have a broader plan in place for evacuating individuals with a disability or a condition affecting communication. (B) The proposal amends this provision to require the development of training that addresses evacuation of residents who require special accommodations, as well as residents with special needs. The proposal also removes the parenthetical, exhaustive list of special conditions. These amendments may require some additional planning on the part of facility staff but are not expected to significantly impact staff or operations. -The proposal replaces references to "facility" with "appropriate facility staff" and "facility administrator" for the reasons set forth in the summary to § 90 above and makes additional technical amendments. These changes will have no additional impact.
41-510	N/A	Searches of residents: (A) Facilities that conduct searches must have procedures in place that set out the parameters for such searches. The procedures must direct, among other requirements, (1) that the purpose for resident searches be	A) *Rather than directing facilities to have procedures that impose the specific requirements around searches established in subdivisions (A)(1) through (A)(3) of the existing provision, the proposal imposes these specific requirements outright. Facilities that conduct resident person searches

		<p>limited to maintaining facility security and controlling contraband while protecting the dignity of the resident; and (2) that such searches be conducted by authorized personnel.</p> <p>(B) – Facilities that do not search residents shall have a procedure prohibiting such searches.</p> <p>(C) – Patdown and frisk searches shall be conducted by personnel of the same sex as the searched resident except in emergencies.</p> <p>(D) Strip searches and vaginal and anal cavity visual searches are permissible in juvenile residential facilities only: (i) by court order; (ii) if conducted by law enforcement in their official capacity, or (iii) if the facility obtains board approval. Facilities conducting these types of searches must have procedures that: (i) require such searches to be performed by personnel of the same sex as the searched resident; (ii) require the searches to be conducted in an area that ensures privacy; and (iii) requires witnesses to the search to be the same sex as the searched resident.</p> <p>(C) – Pat-down and frisk searches shall be conducted by personnel of the same sex as the resident being searched except in emergencies.</p> <p>(D) – Strip searches and visual vaginal and anal cavity searches are authorized only (i) by court order; (ii) if law enforcement personnel acting in their official capacity conducts the search; or (iii) if the facility obtains board approval. Facilities that conduct such searches shall have procedures containing certain specified requirements.</p> <p>(E) Manual and instrumental anal or vaginal cavity searches are prohibited unless court ordered.</p>	<p>must limit the purpose to maintaining facility security and controlling contraband and conduct such searches in a manner that protects the resident’s dignity, conduct such searches only by authorized personnel, and be sure not to touch the resident more than necessary for the search. *Additionally, the proposal expands this provision to require that personnel be properly trained before conducting searches, as well as having the proper authority. Although § 800 of the existing regulation requires staff to search incoming residents and their possessions as part of the orientation process and mandates that staff be trained to perform such duties, the existing regulation does not impose a more generalized requirement that staff conducting any searches, including those outside the context of admission and orientation, be trained. For facilities utilizing searches for facility security, including managing contraband, this provision is essential to ensure that such searches are conducted safely and in a manner that protects the dignity of the resident. In addition to these outright requirements, the proposal mandates that facilities conducting searches have procedures governing such searches.</p> <p>(Former B) *The proposal strikes the entirety of former subsection B as unnecessary. Currently, all group home facilities regulated by DJJ conduct resident searches. Therefore, this proposal will have no impact on existing facilities. To the extent that a facility that currently conducts such searches decides to abstain from this practice in the future, the facility would no longer be required to establish a procedure prohibiting such searches.</p> <p>(New B) *The proposal modifies this provision to require that the staff conducting pat-down and frisk searches be of the same gender as the searched resident rather than the same sex. This change is consistent with PREA, which currently prohibits cross-gendered searches. Assuming DJJ-regulated group homes are compliant with PREA, they will not</p>
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			<p>need to change their practices to comply with this language. (Current D and E) *The proposal strikes the existing subsection D and E in their entirety and replaces them with language in a new subsection C that prohibits strip searches and visual, manual, and instrumental searches of anal and vaginal cavities. Residents placed in the facilities governed by this chapter generally are not the subject of such searches, and, according to facility representatives, orders of these types have not been issued historically. This change will align these facilities with similarly situated nonsecure residential facilities regulated by DSS; such facilities also may not conduct strip searches or body cavity searches.</p>
41-520	N/A	<p>Telephone access and emergency numbers: Juvenile residential facilities must have an emergency telephone number to reach staff immediately, 24 hours per day.</p>	<p>The proposal makes a minor edit to clarify that the staff person must be accessible through the emergency number seven days a week and 24 hours per day. This change is not expected to have an additional impact.</p>
41-540	N/A	<p>Weapons: (A) The existing regulation contains a definition for weapons.</p>	<p>(A) The proposal moves the definition of weapons to § 10 in accordance with the Style Manual. This change will have no impact.</p>
41-550	N/A	<p>Transportation: Juvenile residential facilities must: (A) make transportation available or make necessary arrangements to transport residents; (B) have written safety rules for transporting residents and for using and maintaining vehicles; and (C) have a procedure for verifying appropriate licensure for staff responsible for transporting residents.</p>	<p>(New C and D) *The proposal adds a new subsection C directing facilities to provide a DJJ-approved form or a form containing all elements of DJJ's form to external parties who are transporting residents flagged for additional monitoring due to recent suicide attempts or ideations or because of special medical needs. *The form must identify pertinent, known information concerning the resident's additional monitoring needs if such information reasonably could be considered necessary for the resident's safe transportation and supervision and must notify the transporter to protect the confidentiality of the information in accordance with applicable laws, rules, and regulations. *Under new subsection (D), the requirement to provide the form would not apply if an emergency renders completion of the form impracticable. The proposal may create additional responsibilities for existing staff but is intended to ensure</p>

			<p>that such external parties take measures necessary to guarantee the resident’s safety during transportation. The proposal makes additional amendments of no impact.</p> <p>(New E) *The proposal extends the required procedural content to include verification of appropriate driver privilege status, in addition to driver’s license status to reflect changes made to § 250. This change may require additional information be added to facility procedures but is not expected to impose a significant additional burden on staff.</p> <p>The proposal replaces the term ‘facility’ with ‘provider’ or ‘facility staff,’ as explained in the summary to § 90(C) above. This and other technical changes to this section will have no additional impact.</p>
41-560	N/A	<p>Prohibited actions: Among the actions prohibited in juvenile residential facilities, staff may not (11) apply aversive stimuli to residents, which term is defined in this section. Additionally, staff may not place residents alone in a locked room or secured area where the resident cannot leave.</p>	<p>The proposal moves the definition of “aversive stimuli” to § 10 pursuant to the <i>Style Manual</i>. *Additionally, the proposal strikes the word, “alone” in this provision, as the qualifier suggests that juvenile residential facilities would be authorized to place a resident in a locked room or secure area, provided they were not alone. This is counter to the intent of the provision. The proposal makes additional changes that will have no impact.</p>
41-565	N/A	<p>Vulnerable population: (A) The facility must implement procedures to assess resident vulnerability and upon determining a resident is vulnerable, implement additional precautions, as needed. (C) The provision defines vulnerable population as a resident/group assessed reasonably likely to be exposed to attack or harm. The definition lists several examples that could suggest vulnerability including the resident’s height, age, English proficiency, or sexual orientation.</p>	<p>(A) *The proposal specifies that the vulnerability determination must occur immediately upon the resident’s admission. This change will prevent delays in these decisions that may expose a vulnerable resident to undue harm. The proposal adds language directing the facility to consider the residents’ views regarding their safety as part of the decision.</p> <p>(C) The proposal moves the definition of vulnerable population to § 10 in accordance with the <i>Style Manual</i>. To avoid the interpretation that having any of the enumerated characteristics renders an individual vulnerable per se, the proposal strikes these examples from the definition and clarifies in subsection A that these attributes are mere factors the facility may consider in determining whether a resident is vulnerable. The proposal</p>

			makes additional technical changes that will have no impact.
41-570	N/A	<p>Resident’s mail: (B) Staff may open and inspect residents’ incoming and outgoing nonlegal mail for contraband. Additionally, they may read, censor, or reject nonlegal mail if based on legitimate facility interests of order and security.</p> <p>(C) Legal mail is defined loosely as writings sent to or received from designated individuals including the court, legal counsel, administrators of the grievance system or administrators of the department, facility, provider, or governing authority.</p> <p>(D) Staff are not authorized to read mail addressed to parents, immediate family members, legal guardians, guardians ad litem, counsel, courts, officials of the committing authority, public officials or grievance administrators without first obtaining the court’s consent or unless the facility administrator determines there is a reasonable belief that the facility’s security is threatened.</p> <p>(F) Cash, stamps, and other specified items may be held for the resident.</p> <p>(I) First class letters and packages received for transferred or released residents must be forwarded.</p>	<p>(B) The proposal adds to the nonlegal mail classification electronic nonlegal mail. Thus, emails to or from residents’ family members, friends, teachers, etc., can be opened and inspected for contraband, and when legitimate security interests or interests of order dictate, may be read, censored, or rejected. The proposal also adds an “as appropriate” to qualify the requirement that staff notify residents when withholding incoming or outgoing letters.</p> <p>(C) The proposal moves the definition of legal mail to § 10, and makes minor nonsubstantive edits to the definition, which will have no additional impact.</p> <p>(D) The proposal adds language indicating that mail, for these purposes, includes electronic mail.</p> <p>(F) *The proposal adds a requirement that specified items be set out in the facility’s written procedures. This will ensure that each facility has established rules in written procedures that identify the types of items staff may hold for residents.</p> <p>(I) *The proposal provides that the mail shall be forwarded to the resident’s last known address or forwarding address or returned to sender. This change will give facilities clearer guidance on where to forward mail for such residents. The proposal makes additional technical amendments for style, which will have no impact.</p>
590	N/A	<p>Visitation: (B) Facilities must make a copy of the written procedures available to the residents’ parents, when appropriate, legal guardians, the resident, and other interested persons important to the resident, by the resident’s admission date.</p>	<p>(B) *The proposal removes the obligation to make these procedures available to other interested persons important to the resident. The department does not see the need to regulate how visitation procedures are disseminated to other interested parties. Under the proposal, facilities will have discretion to provide these parties with the procedures but will no longer be under a mandate. The proposal also moves the qualifier “when appropriate” so that facilities are directed to make the procedures available to parents or guardians only when appropriate. The proposal makes</p>

			technical changes that will have no additional impact.
41-600	N/A	Contact with attorneys, courts, and law enforcement	The proposal makes minor edits for style.
41-610	N/A	Personal necessities and hygiene: Juvenile residential facilities must provide residents with various items at admission, including, washcloths and towels and separate bed and bed linens. The washcloths, towels, and bed linens must be cleaned at least once every seven days or more often, if necessary. Bed and table linens must be laundered using bleach or another EPA-approved sanitizing agent.	*The proposal removes the reference to table linens, which fall outside the purview of this section. This section addresses resident’s personal hygiene and personal necessities provided to the residents in furtherance of proper hygiene. Table linens have no bearing on the resident’s personal hygiene and should not have been included in this section.
41-620	N/A	Showers: Residents must be given the opportunity to shower daily unless the Governor has declared a state of emergency or the locality issues water restrictions due to drought. In either case, showers must be restricted as determined by the facility administrator after consulting local health officials. If the facility uses an alternate schedule, the schedule shall account for cases of medical necessity related to health concerns and shall be effective only until restrictions are lifted.	*The proposal replaces the specific exceptions for Governor’s state of emergencies or locally issued water restrictions with a general exception that applies if there is a documented emergency. This amendment will exempt facilities during emergencies such as fires, loss of utilities, or other natural disasters that might make the provision of a shower on a given day impractical.
41-630	N/A	Clothing: (D) Facilities must allow residents to take personal clothing when leaving the facility.	(D) The proposal moves this provision to § 810, which sets out discharge procedures for residents in facilities. This nonsubstantive change will have no additional impact.
41-650	N/A	Nutrition: (A) With some exceptions, juvenile residential facilities must provide residents with three nutritionally balanced meals daily and an evening snack that meet the applicable federal requirements. (B) The facility must provide special diets or alternative dietary schedules if prescribed by a physician or necessary to observe the resident’s established religious practices. (C) Facilities must retain menus of meals served on file for at least six months.	(C) *The proposal replaces the requirement to retain menus for six months with a requirement to retain such menus in accordance with applicable federal requirements. This change is consistent with similar proposals for the regulations governing JDCs and JCCs and will prevent the department from having to update the regulation if federal requirements are amended in the future. (G) *The proposal adds a new subsection (G), which provides an exception from certain provisions of this section for IL programs. Frequently, residents in these programs manage their meals

		<p>(D) Facility staff who eat with residents must have the same meals as the residents unless a physician has prescribed a special diet or to observe established religious practices.</p> <p>(E) Facilities may not allow more than 15 hours to pass between the residents' evening meal and the next day's breakfast unless the facility administrator allows an extension on a weekend or holiday, limited to 17 hours between the two meals.</p> <p>(F) Facilities must ensure that food is available to residents who must eat breakfast before the 15 hours have expired due to documented medical or religious reasons.</p>	<p>independently and, due to work schedules, may struggle with compliance, especially monitoring and documenting meals served and the number of hours that passed between dinner and the next day's breakfast.</p> <p>*Under the proposal, these programs will be required to establish written procedures to ensure residents are receiving adequate nutrition and continue to adhere to the other nutrition provisions in subsection A and B, but the programs will no longer need to comply with the remaining provisions in this section. These changes reflect an active variance and will have no additional impact. The proposal makes several additional technical amendments that will have no impact.</p>
660	N/A	School enrollment and study time:	The proposal makes minor style edits.
680	N/A	<p>Recreation: (A) Every provider must have a recreation program that includes, among other elements, regularly scheduled indoor and outdoor recreational activities that are structured to develop skills and attitudes.</p> <p>(B) The provider must develop and implement written procedures to ensure the safety of residents participating in recreational activities. The written procedures must address: (1) how activities will be supervised by people knowledgeable about the necessary safeguards, (2) how residents are assessed for suitability and the supervision provided, and (3) how safeguards for water-related activities will be provided, including ensuring that a certified lifeguard supervises all swimming activities.</p> <p>(C) For off-campus, overnight recreational trips, the provider must document trip planning, including: (1) a supervision plan that addresses sleeping and awake hours; (3) an overall emergency, safety, and communication plan for the activity including emergency numbers of facility administration;</p>	<p>(A) The proposal clarifies that these activities should be structured to develop prosocial attitudes. *In addition, the proposal adds to the list of elements that must be part of the recreation program, appropriate recreational materials for indoor and outdoor use. Section 450 of the existing regulation, which addresses space utilization, requires each facility to provide an indoor recreation area with appropriate recreation materials but does not impose a similar requirement for appropriate recreation materials in outdoor recreation areas. The proposal remedies this deficiency and moves each such provision to this section. Neither the existing language nor the proposal defines what equipment is deemed "appropriate" for these purposes, leaving the facility administrator with broad discretion to make this determination based on the facility's residents.</p> <p>(B) *The proposal removes the facility's obligation to develop and implement written procedures addressing these issues, and instead directs the facility to protect resident safety outright by ensuring that these requirements are in place and observed. This is a minor change that</p>

		<p>and (6) a plan to ensure that all necessary equipment for the activity is in good repair and appropriate for the activity.</p> <p>(D) – All overnight out-of-state/country recreational trips shall have written permission from each resident’s legal guardian, documentation of which shall be kept in the resident’s record.</p>	<p>removes the requirement to have procedures in place but that retains the underlying mandates that would have been part of the procedure.</p> <p>(B)(3) Among the safeguards for water-related activities, *the proposal adds a requirement that the provider try to determine each resident’s swimming ability by consulting the parent or guardian. These changes may impose additional duties on staff who are not already collecting the information in this manner.</p> <p>(B)(4) *The proposal adds a new subdivision instructing the facility to ensure that all participants are appropriately equipped and dressed (including wearing safety gear appropriate for the activity). This was a mandate for wilderness programs under the existing regulation and was extended to apply to all recreational activities regardless of their scope or frequency.</p> <p>(C)(1) The proposal adds language requiring the supervision plan to meet the minimum staffing ratio requirements in § 930 (1:8 during resident waking hours and 1:16 during resident sleeping hours). This is consistent with new language added to § 930 and specifically addressing off-campus, facility-sponsored trips. This amendment is intended as clarification and is not expected to change practices in facilities.</p> <p>(C)(3) *The proposal adds a requirement that the emergency, safety, and communication plan include resident accountability, prompt evacuation, and identification of emergency numbers for facility administrators and outside emergency services. The mandate currently applies only to wilderness programs and has been extended to all facilities participating in overnight trips, regardless of their scope or frequency.</p> <p>(C)(6) *The proposal expands this provision to apply to gear for the activity and to require that such equipment and gear be certified, if in operable condition, and appropriate for the resident’s age, body-size, and for</p>
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			<p>the activity. These requirements mirror the mandates for wilderness programs. (D, new E) *The proposal modifies subsection (D) to require the facility administrator to ensure, for all overnight recreational offsite trips, that (1) a telephone is accessible in areas where residents sleep or participate in programs; (2) first-aid kits containing supplies appropriate for the activity are always accessible; 3) a separate bed, bunk, or sleeping bag is available for each resident and staff member in attendance, and (4) bedding is clean, dry, sanitary, and in good condition. While the wilderness program provisions in this chapter do not apply to DJJ-regulated facilities, these new requirements would have been consistent with language in the board's regulations addressing wilderness programs. The board has proposed repealing the wilderness program provisions only because they do not apply to board-regulated facilities. It is DJJ's understanding that many of its regulated facilities already comply with these provisions during overnight trips and will not be impacted by these changes. The proposal also moves the language requiring parental or guardian permission for certain overnight trips to a new subsection E.</p>
41-690	N/A	<p>Residents' funds: (B) A resident's funds (e.g., allowance or other earnings) must be used for the resident's benefit, for court-ordered payments, or for the resident to make restitution payments for damaged property or personal injury.</p>	<p>(B) *The proposal makes a minor edit to clarify that the funds referenced in this provision are the resident's personal funds, not the facility's programming funds. As this interpretation is well-established in the department's current Compliance Manual, this change will have no additional impact. The proposal makes other changes that will have no impact.</p>
41-700	N/A	<p>Fundraising: Facilities are prohibited from using residents in fundraising without the written permission of the legal guardian and the consent of residents.</p>	<p>*The proposal extends the requirement for written permission to include the parent and the resident. Requiring the written consent of the resident, in addition to the parent or legal guardian, will establish clear documentation of the facility's compliance with this provision. Additionally, the proposal provides that the written permission of the parent or legal guardian is necessary only "as appropriate and applicable." The</p>

			chapter uses this language frequently to convey the idea that a parent or guardian’s permission is necessary only when a resident is under the age of legal consent. The department is aware of only one facility that currently uses residents in its fundraising activities; thus, these changes are likely to have only a minimal impact.
41-710	N/A	Placement pursuant to a court order: When a resident’s facility placement is based on a court order, the facility can meet the following specific regulatory sections by placing a copy of the court order in the file: (1) § 730 (application for admission); (2) § 740 (admission procedures); (3) § 750 (written placement agreement); (4) § 780 (emergency admissions); and (5) § 810 (discharge procedures).	The proposal modifies this language for clarity. The drafter intended to exempt court-ordered placements from the regulatory requirements in §§ 730, 740, 750, 780, and 810, related to admission and discharge and to demonstrate these exemptions by having staff place and maintain a copy of the court order in the resident’s case file. Except for the discharge provisions, each separate section currently exempts court-ordered placements. The existing language is confusing because it suggests that facilities are subject to the regulatory requirements in these enumerated sections for court-ordered placements. The proposal clarifies that the enumerated regulation sections do not apply and directs the facility to maintain a copy of the court order in the resident’s case records rather than the documentation required by those sections. This change is intended as a clarification and will have no impact.
41-720	N/A	Readmission to a shelter care program:	The proposal makes minor edits for style.
41-730	N/A	Application for admission: Before a resident is accepted for care in a facility, providers are required to develop and complete an application for admission, designed to compile certain important information, such as the resident’s educational, mental health, psychological and behavioral support needs.	*The proposal requires the individual who referred the resident, rather than the provider, to complete the application. The provider, in turn, is responsible for ensuring that the referral source has completed the application for each admitted resident and the application is placed in the resident’s record. This change reflects current practice and will have no additional impact. The proposal makes additional minor changes for style, which will have no additional impact.
41-740	N/A	Admission procedures:	The proposal makes minor edits for style.
41-750	N/A	Written placement agreement: (A) Prior to a routine admission, each resident’s record must include a completed placement	(A) *The proposal removes the exception for self-admissions to shelter care facilities because the department does not regulate or certify self-

		<p>agreement signed by a facility representative and the legal guardian or placing agency. Court-ordered placements and self-admissions to shelter care facilities are exempt from this requirement. A routine admission is defined in this subsection and includes application and execution of a placement agreement.</p>	<p>admissions. The proposal also strikes references to “routine admission” in favor of the term “planned admission,” which better reflects the process, involving completion and evaluation of an application and execution of a written agreement. The proposal defines “planned admission” using the current definition for “routine admission” in § 10. The proposal makes other style edits that will have no additional impact.</p>
41-760	N/A	<p>Admission: (A) Facilities must have written procedures governing resident admission and orientation, which shall provide for, among other requirements: search of the resident; screening the resident for medical issues; notifying parents and legal guardians of the resident’s admission; interviewing the resident; explaining program services and schedules to the resident; orienting the resident on his rights; and assigning him to a housing unit or room. (B) Readmissions to shelter care facilities that occur within 30 days from discharge require the facility to update the information required in subsection A.</p>	<p>(B) The proposal adds clarifying language indicating that for such readmissions, the facility must administer all searches and screenings, provide all notifications, and update all information required under subsection A. This is intended to clarify current language and is not expected to have an additional impact.</p>
41-770	N/A	<p>Orientation to facility rules and disciplinary procedures:</p>	<p>The proposal makes minor edits for style.</p>
41-780	N/A	<p>Emergency admissions: Providers that accept emergency admissions must: 1) develop and implement procedures governing such admissions, including procedures to make and document prompt efforts to obtain the signed written placement agreement or the court order, place the court order and other documents in the resident’s record, and document the individual’s eligibility for admission. The proposal defines emergency admissions as unplanned admissions of residents who need immediate care, excluding self-admissions to shelter care or court-ordered placements.</p>	<p>The proposal moves the definition for emergency admission to § 10 of this chapter. *Additionally, the proposal eliminates the exclusion for self-admissions to shelter care facilities because these admissions are neither regulated nor certified by the department. *The proposal also strikes the exclusion for court-ordered placements from the definition. In requiring providers to attempt to obtain the court order for placement in the resident’s record, the current provision contemplates the possibility of a court-ordered emergency admission. The proposal makes additional technical amendments. These changes are intended to clarify the language and will have no additional impact.</p>

41-790	N/A	Resident transfer between residential facilities located in Virginia and operated by the same governing authority:	The proposal makes minor edits for style.
41-800	N/A	Placement of residents outside the facility: Facilities may not place residents outside the facility before obtaining a placing agency license from DSS, except as permitted by statute or by court order.	*The proposal repeals the entirety of this residual provision, which was part of a previous iteration of the regulations (Standards for Interdepartmental Regulations of Children’s Residential Facilities) that was repealed in 2008. At that time, the regulations were jointly promulgated by several boards, including DJJ and DSS, and applied to all children’s residential facilities licensed by these agencies. When the law changed in 2008 to make each agency the sole regulatory and licensing authority for respective residential facilities they funded or operated, the interdepartmental regulations were repealed. Group homes and other DJJ-regulated nonsecure residential facilities do not make outside placements; thus, this provision was retained in error. The change will have no additional impact.
41-810	N/A	Discharge procedures: (B) The juvenile residential facility must make the facility’s criteria for discharge accessible to prospective residents, legal guardians and placing agencies. (C) Residents may be discharged only to the legal guardian, legally authorized representative, or foster parent with written authorization of the legal guardian’s representative. Residents over age 17 or emancipated residents may discharge themselves.	(B)-(C) The proposal clarifies that the provision restricting a resident’s discharge to his legal guardian, legally authorized representative, or eligible foster parent applies only to residents under the age of 18 and that emancipated residents or residents aged 18 or older may assume responsibility for their own discharge. Further, the proposal replaces references to “the legal guardian” with “the parent or legal guardian,” consistent with other references in this chapter and with the definition in § 10. These changes are intended to clarify the provisions and will have no additional impact. (E) The proposal adds a new subsection that captures language currently contained in § 630 allowing the facility to permit residents to take their personal clothing when discharged from the facility. Because this provision was moved from another section, it will have no additional impact. The proposal makes other nonsubstantive changes that will have no impact.

41-820	N/A	<p>Discharge documentation: (A) When residents are discharged from a juvenile residential facility, their case records must include... (4) no later than 30 days after discharge, a comprehensive discharge summary reviewing, among other topics, (b) the resident's progress toward meeting their individual service plan objectives. The discharge summary shall be placed in the resident's record.</p>	<p>(A,4) *The proposal modifies the directive in subdivision 4(b) to require that the discharge summary review the resident's progress toward meeting either the individual service plan objectives or the resident's service objectives, as applicable. This is consistent with the change the department is proposing to § 860 (see summary below). The proposal makes several nonsubstantive amendments, none of which will have an impact.</p>
41-840	N/A	<p>Structured programming: (A) Group homes or similar facilities must implement a structured, daily routine, including appropriate supervision designed to... (2) provide protection, guidance, and supervision and... (4) meet the objectives of any individual service plan, among other requirements.</p>	<p>(A) The proposal removes the provision mandating inclusion of appropriate supervision in the daily routine, as this is covered under subdivision (A)(2). In addition, the proposal adds "as applicable" language to clarify that the requirement to meet the objectives of an individual service plan is not absolute. This clarification acknowledges scenarios where a resident's length of stay is less than 30 days and contemplates the possibility that a facility may not have completed a service plan for residents in those programs. (B) *The proposal clarifies that interim goals, objectives, and strategies are used until the resident's individual service plan or service objectives, as applicable, are developed. This change conforms to amendments to § 860 (see summary below). The proposal also makes a style edit, which will have no additional impact.</p>
41-850	N/A	<p>Daily log:</p>	<p>The proposal makes minor edits for style and clarification.</p>
41-860	N/A	<p>Individual service plan: (A) Facilities shall establish and place in the resident's record individual service plans within 30 days following admission and implement such plans immediately thereafter. Facilities must meet certain individual requirements regarding the plan's content dissemination, the frequency of reviews, the parties whose participation in plan development is required and who must be invited to participate. These requirements currently are</p>	<p>(H) *The proposal adds a new subsection H that renders the other subsections to this section inapplicable to shelter care programs. Under the proposal, instead of developing individual service plans, shelter care programs will need to prepare and place in the resident's record within 72 hours of admission an abbreviated service objective for each resident. The department currently regulates nine facilities that operate shelter care programs or serve a dual function and will be impacted by this change.</p>

		established in subsections A through G of this section.	The proposal also replaces all references to “service plans” in this section with “individual service plans,” to reflect the amended terminology in §10. This change will have no impact.
41-870	N/A	Quarterly reports: Group home staff must prepare a quarterly progress report within 60 days of developing a resident’s individual service plan and every 90-day period thereafter. The quarterly reports must be distributed to the resident’s family, legal guardian, or legally authorized representative, as well as the placing agency and appropriate facility staff.	*The proposal replaces the resident’s family with the resident’s parent, as one of the parties entitled to receive a copy of the quarterly progress report. The term “family” is vague and may be broader than the drafters intended. This change will provide clear guidance as to which family members are entitled to receive the quarterly progress report and may reduce some administrative burden on staff. The proposal makes additional style changes that will have no impact.
41-880	N/A	Therapy:	The proposal makes minor style edits.
41-890	N/A	Community relationships: (D) Every provider must develop and implement department-approved written procedures for promoting positive relationships with facility neighbors.	(D) *The proposal removes the mandate requiring DJJ approval for these procedures. The department does not approve procedures established by group homes or other regulated entities. The proposal also replaces references to “facility” with “facility staff” or “appropriate facility staff.” Other style edits will have no impact.
41-900	N/A	Resident visitation at the homes of staff: Residents may not visit staff members’ homes unless they obtain written permission from the resident’s parent or legal guardian, the facility administrator, and the placing agency.	*The proposal removes the authorized exceptions and places an absolute prohibition on residents visiting staff homes. This change seeks to protect the staff from liability and ensure the safety and protection of the resident. Because very few facilities allow residents to visit the homes of staff, even within the parameters of the existing regulation, this change will have no tangible impact.
41-910	N/A	Additional assignments of direct care staff: When direct care staff take on nondirect care duties, those duties may not interfere with direct care duties.	*The proposal repeals this section in its entirety, as this matter need not be regulated. This change will have no additional impact.
41-920	N/A	Staff supervision of residents: (A) Except in emergencies, direct care staff may not be on direct care duty more than six consecutive days without a rest day, as defined in this subsection. (D) Facilities must have at least one trained direct care staff member on duty and actively	(A) The proposal moves the definition for rest day to § 10. (D) *The proposal clarifies that trained staff, for these purposes, are staff who have satisfied the initial training requirements set out in § 200 and the annual training requirements (if applicable) set out in § 210. *The provision also highlights an exception, referenced in new subsection G, which

		<p>supervising residents whenever at least one resident is present. (F) The provider shall implement written procedures addressing resident supervision including contingency plans for resident illnesses, emergencies, off-campus activities, and resident preferences.</p>	<p>exempts staff in IL programs from the requirement regarding active supervision of residents in certain limited circumstances. (F) *The proposal removes “resident preferences” from the list of topics regarding resident supervision that need to be addressed in procedures. (G) *The proposal provides an exception from the staffing requirements outlined in subsection D for direct care staff in IL facilities. Under the exception, such staff may leave the facility for up to one hour to attend to a resident in an emergency who is off-site and requires immediate assistance. *This exception is available provided: (i) the employee has notified the facility administrator or other supervisor before leaving the facility; (ii) residents remaining in the facility have an emergency means of communicating with a staff member; and (iii) the facility has written procedures in place governing this exception. The proposal is intended to ensure that when only one direct care staff is on duty in an IL program (where residents are developing skills to live independently), that employee can address residents off-campus who may encounter emergency situations. This change reflects an active variance currently in place and applicable to an IL facility regulated by the department and will have no additional impact. To the extent that other IL facilities are established and subject to DJJ certification, staff in these facilities also may be eligible for the exception.</p>
41-930	N/A	<p>Staffing pattern (A) During resident waking hours, at least one direct care staff must be awake, on duty, and responsible for supervising every 10 or fewer residents on the premises or participating in off-site, facility-sponsored activities. IL programs must satisfy the same requirements for every 15 or fewer residents on the premises or participating in off-campus, facility-sponsored activities. (C) Except in approved IL programs, at least one direct care</p>	<p>(A) *The proposal changes the current 1:10 staffing ratio applicable in group homes and similar facilities to 1:8 to conform to the staffing ratios needed to satisfy PREA. Rules regarding off-campus events are addressed in a new subsection D, below. *Finally, the proposal strikes the 1:15 staffing requirement in IL programs and sets out different requirements in a newly created subsection E, which imposes a general exception to all provisions of this section for IL programs. (C) *The proposal removes from this provision any reference to IL</p>

		<p>staff must be on duty and responsible for supervising residents in each building where residents are sleeping. (D) At least one direct care staff must be awake and on duty for every 30 residents on every floor where residents are sleeping.</p>	<p>programs. Rather, a new subsection E exempts IL programs from this section and places them under § 1005's purview. (D) *The proposal removes this provision in its entirety, as this requirement is not in keeping with the structure of group homes and other applicable facilities. New (D) *The proposal supplements the 1:8 staffing ratio applicable for on-site supervision during resident waking hours with language giving the facility administrator the discretion to determine appropriate staffing ratios while residents are off site and participating in facility-sponsored activities or events. *The administrator must consider which residents are participating, the nature of the event, and other factors, but shall never allow fewer than one direct care staff member for every eight or fewer residents off site. This supplemental requirement is intended to put facilities on notice that they may increase staffing ratios when residents are off site but are not required to do so. (New E) *The proposal adds a new subsection (E) exempting IL programs from the requirements of this section and cross referencing the new §1005, which will apply solely to IL programs.</p>
N/A	41-935	N/A	<p>Periodic monitoring of residents: *The proposal adds a new § 935, which imposes upon staff in group homes and other nonsecure facilities a new duty to conduct periodic checks on residents present in the facility at least once every 30 minutes, or more often if necessary. The proposal directs these checks be documented in accordance with written procedures. Residents in IL programs are developing skills to live independently; therefore, periodic checks are not necessary for such facilities. The proposal is intended to ensure that group homes are adequately monitoring residents in their programs to ensure their safety. Most facilities already follow this procedure and will not be impacted by this change.</p>
41-950	905	Work and employment:	Currently, § 950 is the only section captured under Part VII of this chapter.

		<p>(A) Unpaid or paid chores and work assignments must accord with the age, health, ability, and service plan of the resident.</p> <p>(B) Off-site work assignments or employment including reasonable rates of pay, must be approved by the facility administrator, and the parent or legal guardian must provide consent as appropriate and applicable.</p>	<p>Rather than have one part devoted to a single section, the proposal repeals the entirety of § 950 and moves its content to a newly created § 905, placed under Part VI (Program Operation), Article 2 (Programs and Services). This nonsubstantive change will have no additional impact.</p> <p>(A) *The proposal removes the mandate that work assignments accord with individual service plans. The current language does not exempt residents who are not required to complete an individual service plan, nor does it allow facilities the flexibility to use chores as behavior management tools or for other purposes unrelated to the resident's service plan. The proposal will allow facilities to retain this flexibility.</p> <p>*The proposal also replaces the resident's age with his developmental level. This change acknowledges that a resident's age is inconsequential if a developmental disability renders him incapable of performing a chore.</p> <p>(B) *The proposal removes the requirement to obtain consent from the parent or legal guardian for such work assignments or employment, instead requiring the facility administrator to collaborate with the parent or legal guardian and the referring agency before approving such work assignments. This provision preserves the parent's right to weigh in on these decisions, but ultimately recognizes the possibility that parents or legal guardians may not always be considering the resident's best interests in making these decisions.</p>
41-960	N/A	<p>Independent living programs:</p> <p>(A) IL programs must be competency-based and approved by the board to give residents the opportunity to develop skills needed to live independently after completing the program.</p> <p>(B) IL programs must have a written description of their curricula and methods used to teach IL skills, including finding and maintaining a job, managing finances, household budgeting,</p>	<p>(A) The proposal moves the entirety of this language into a newly created definition for IL programs in § 10. *The amended definition holds the director and not the board responsible for approving such programs.</p> <p>(B) The proposal strikes this provision and moves the directive that such programs have a written description of the curriculum to § 970, which addresses curricula for IL programs. The proposal also strikes the required subject matter for IL curricula, as the specific topics are set out in § 970.</p>

		<p>hygiene, nutrition, and other life skills.</p>	<p>These changes effectively repeal this section. The repeal will have no additional impact, as most of the content is retained in other sections.</p>
<p>41-970</p>	<p>N/A</p>	<p>Independent living programs curriculum and assessment: (A) Every IL program must demonstrate its use of a structured program with board-approved materials and curriculum to teach IL skills. (B) Within 14 days of IL placement, the provider must assess the resident’s living skills using a DJJ-approved assessment tool. The assessment must measure, among other topics: 3) personal appearance, 5) health and sexuality, and 14) legal skills. (C) The resident’s individualized service plan must include the required elements listed under § 860, as well as goals, objectives, and strategies addressing each of the areas in which the resident is assessed.</p>	<p>(A) *The proposal replaces the board with the facility administrator as the entity authorized and responsible for approving the materials and curricula. This change reflects current practice and will have no additional impact. (New B) The proposal adds a new subsection B that incorporates the requirements currently contained in Section 960, requiring IL programs to have written descriptions of the curricula and methods used to teach living skills. (New C) *The proposal removes the requirement in former subsection (B) that the facility use a DJJ-approved assessment tool to complete the assessment. Because subsection C identifies clear areas for assessment, the department does not believe an independent assessment tool is necessary to measure a resident’s progress in these areas, nor does the department wish to remove the facility’s discretion to determine how best to assess these skills. The department understands that the IL programs the board currently regulates are contractually required to use certain assessment tools; thus, this amendment may not change practices in those facilities. *The proposal also modifies the skills categories by adding hygiene to the personal appearance category, replacing the health and sexuality category with physical and mental health, and replacing legal skills with legal matters, to clarify that the resident must demonstrate the ability to address whatever legal matters he encounters. The changes are intended to promote clarity and will have no additional impact. (Former C and new D) *The proposal adds a new subsection (D) requiring the IL program to document the resident’s progress towards developing IL skills and strikes subsection (C), which requires certain information be included in the individual service plan.</p>

			This change will give IL program administrators additional flexibility in administering the programs and measuring and documenting the resident's progress.
41-980	N/A	Employee training in independent living programs: IL programs must develop and implement procedures to train direct care staff within 14 days of employment on the content of the IL curriculum, the use of the IL materials, applying the assessment tool, and the documentation methods used.	*The proposal clarifies that direct care staff training must occur before the expiration of the staff's 14 th workday. As currently drafted, it is not clear whether 14 days of employment is measured from the date the offer of employment is accepted, the individual's start date, or some other date. This change is consistent with the department's longstanding interpretation and will have no additional impact. The proposal also conforms this provision to § 960 by removing language directing staff to be trained on applying the assessment tool. The proposal makes additional, minor edits, which will have no impact.
41-990	N/A	Medication management in IL programs:	The proposal makes minor edits for style.
41-1000	N/A	Nutrition procedure in IL programs: IL programs must develop and implement written procedures that ensure that each resident is receiving adequate nutrition as required in various provisions of the nutrition section (§§ 650(A), (B), and (C)).	*The proposal strikes subsection C from this requirement. Section 650(C), as proposed, requires facilities to maintain a file with menus of the meals they served in accordance with federal requirements. This provision is not practical for residents in IL programs who may work several jobs or hours that prevent them from preparing their own meals and maintaining documentation of what they prepared. This change is consistent with an active variance in place for the TYSC since 2016 that excuses its IL apartment-style program from the menu retention requirements.
N/A	41-1005	N/A	Staffing in independent living programs: The proposal adds a new section that addresses the staffing ratio requirements for IL programs. *Under the new provision, there must be at least one direct care staff member responsible for supervising every 16 residents both during hours when residents are sleeping and awake. The proposal also includes an exception with a cross reference to Section 920(G) of the regulation, which allows the sole direct care employee on duty to leave the IL program facility in emergencies for no longer than one

			hour to attend to a resident off site who needs immediate assistance. This language reflects an active variance currently in place for the TYSC. Because this regulatory change is consistent with the existing variance, the change will have no further impact.
41-1010, 41-1020, 41-1030, 41-1040, 41-1050, 41-1060, 41-1070	N/A	Part IX – Wilderness Programs and Adventure Activities: These seven sections capture the provisions that apply to formal wilderness programs and adventure activities. Wilderness programs differ from group homes that occasionally take residents on off-campus wilderness or adventure activities because the formal programs must have such activities as their primary purpose.	*The proposal repeals each of these seven sections. Residential wilderness and adventure activity programs are regulated by DSS. Because neither DJJ nor the board regulates these programs, these provisions are not necessary.
1080	N/A	Requirements of family-oriented group home systems: FOGs must have written procedures in place for, among other requirements: (1) prohibiting residents less than 18 and individuals older than 17 from sharing sleeping rooms absent the facility administrator’s specific approval; (4) preparing a treatment plan for each resident within 30 days of admission or 72 hours in the case of a shelter care facility and reviewing the plan quarterly; (9) notifying parents and guardians, the placing agency, and the department of any serious incidents, as specified in written procedures, and (11) ensuring the secure control of any firearms and ammunition in the home.	Because the section establishes the written procedures that FOGs need, the proposal modifies the catchline to clarify that this section addresses written procedures for FOGs. The proposal then moves several provisions in this section requiring the facility to include specific language in the procedures pursuant to § 1100, so that these provisions may be imposed outright. *Thus, language directing FOGs to have procedures prohibiting residents of certain ages from sharing sleeping rooms, that direct staff to prepare the applicable treatment plan for residents, that direct staff to notify the applicable parties regarding serious incidents, and that require FOGs to ensure that firearms and ammunition are secured will no longer be required for inclusion in a procedure but will need to be complied with as a regulatory mandate. (Former 4) The proposal replaces “treatment plan” with individual service plan as the plan FOGs must prepare within 30 days of admission. This is consistent with language used in § 10 and other areas of the chapter. This clarification will have no additional impact. *The proposal also provides an exception for shelter care FOGs, which will need to document service objectives for their residents within 72 hours of admission. While these

			<p>changes are substantive, they will have no impact given that currently, there are no FOGs in Virginia.</p> <p>(9) Under the current provision, FOGs are not subject to Section 90's SIR requirements and may establish their own written procedures regarding how soon to notify affected entities of the types of incidents that warrant an SIR. *The proposal removes this authority by striking subdivision (9) in its entirety. The department believes that FOGs should be subject to the same SIR requirements as other board-regulated residential facilities. The purpose of SIR requirements is to notify the appropriate parties of serious incidents and to enable DJJ to take whatever additional measures are necessary to address these incidents. The proposal adds new language in § 1110 subjecting FOGs to the SIR requirements in Section 90.</p> <p>(Former 11) The existing provision requires facilities to ensure that firearms are secure but arguably should be more restrictive. *The amendment requires FOGs to ensure that firearms and ammunition are secured to prevent access by juveniles who are not authorized to access these weapons. The proposal makes additional, minor edits for style. Because there are no FOGs currently in operation and subject to these provisions, the changes will have no immediate impact.</p>
1090	N/A	Examination by physician:	The proposal makes a minor style edit.
1100	N/A	Requirements of family-oriented group homes: This provision establishes a list of required items for FOGs, including, for example: (2) functioning smoke alarms; (4) modern sanitation facilities; (8) a separate bed for each resident; (11) an adequate number of sanitary toilet and bath facilities; and (17) the provision of clean clothing and personal hygiene items daily	<p>(2) *The proposal adds language requiring the facility to conduct and document inspections on smoke alarm devices at least monthly. This change is consistent with recommendations from the American Red Cross. Although this new language would expand the duties of FOG operators, because no such facilities are currently in operation in Virginia, the proposal will have no additional impact.</p> <p>(4) *The proposal removes the requirement that FOGs have modern sanitation facilities. New subdivision 10 requires facilities to have adequate sanitary toilet and bath facilities.</p>

			<p>New (7) In addition to the existing requirement that a bed be afforded to each resident, *the proposal requires each bed be equipped with a mattress, pillow, blankets, bed linens, and, if needed, a waterproof mattress cover and that such items be cleaned at least once weekly, or more often if needed.</p> <p>*The proposal requires an EPA-approved sanitizing agent be used to wash bed linens. This mirrors the general requirement applicable to group homes and similar facilities.</p> <p>New (16) *The proposal adds that shoes for indoor and outdoor wear must be part of this daily provision, and that all articles of clothing and shoes must be size appropriate, clean, and in good condition.</p> <p>Finally, the proposal adds a new subsection B that moves several of the requirements originally mandated for inclusion in procedures under § 1080 to this section and imposed outright. While many of these changes impose clearer, more specific duties on FOG operators, they will have no immediate impact because there are no qualifying board-regulated facilities.</p>
1110	N/A	<p>Other applicable regulations: Currently, in addition to the regulatory provisions listed in Part X of this regulation (§§ 1080-1100), FOGs are subject to the sections addressing background checks, orientation, and training in §§ 180, 190, 200, and 210. By identifying a small number of regulatory sections with which FOGs must comply, the board has demonstrated its belief that FOGs are a special class of group homes that should not be subject to the same level of regulation as other group homes or similar facilities.</p>	<p>*The proposal identifies 13 additional sections under this chapter that will apply to FOGs, which will include: § 90 (<i>requiring certain incidents be reported to specified parties and that a report be prepared and maintained</i>); § 115 (<i>directing facilities to take reasonable steps to ensure that individuals required to receive information under the regulation who have conditions affecting communication under the information provided</i>); § 560 (<i>identifying prohibited actions in group homes including unlawful discrimination, application of aversive stimuli, mechanical restraints use, and locked confinement</i>); § 565 (<i>requiring that a procedure for assessing vulnerable residents be implemented and additional precautions applied for such residents</i>); § 570 (<i>establishing rules for delaying, withholding, and inspecting resident mail</i>); § 580 (<i>requiring that residents have reasonable access to a telephone</i>); § 590 (<i>requiring residents</i></p>

			<p><i>have reasonable visiting privileges and directing the facility to make its visitation procedures available to parents, the resident, and other specified parties); § 600 (mandating that residents have uncensored, confidential contact with their legal representatives, that they not be denied access to the courts, and that they not be compelled to submit to questioning by law enforcement); § 620 (requiring staff to give residents daily opportunities to shower, except in certain specified circumstances); § 640 (directing that facilities provide residents with privacy while bathing, dressing, or using the restroom); § 660 (demanding that the facility make reasonable efforts to enroll compulsory school-aged residents in educational programs within five school business days after admission); § 670 (prohibiting facilities from mandating or denying resident participation in religious activities); § 690 (directing providers to implement written procedures for safekeeping and recordkeeping of residents' funds and limiting the use of such funds; and § 700 (prohibiting the provider from using residents to fundraise without the legal guardian's written permission and the resident's consent. Although, currently, there are no FOGs under the department's certification purview, the department believes that if any future facilities comply with these additional regulatory requirements, it will ensure the safety and well-being of the residents in such facilities.</i></p>
1120	N/A	<p>Definition of respite care: This provision defines respite care facilities, which are designed to provide temporary residential care to residents to relieve parents or guardians from these responsibilities.</p>	<p>The proposal repeals this unnecessary definition. The department does not regulate these facilities.</p>
1130	N/A	<p>Admission and discharge from respite care: This section governs the process for admitting and discharging residents from respite care.</p>	<p>*The proposal repeals this unnecessary section. The department does not regulate respite care facilities.</p>
1140	N/A	<p>Updating health records in respite care: This provision requires respite care facilities to</p>	<p>*The proposal repeals this unnecessary section. The department does not regulate respite care facilities.</p>

		update certain health care information of a resident for each stay at the facility.	
1150	N/A	Definitions applicable to health care services: This section provides definitions applicable to health care services, including definitions for the terms: health authority, health care record, health care services, and health-trained personnel.	The proposal repeals this entire section and moves the definitions for each term to § 10. The term “health authority,” though referenced in this section, is not used elsewhere in the regulation; therefore, it does not require definition. These amendments will have no additional impact.
1160	N/A	Provision of health care services:	The proposal makes minor style edits.
1170	N/A	Health care procedures: (A) Providers must implement procedures addressing arrangement for medical and mental health services for residents, according to statutory requirements or agreements with the resident’s legal guardian. (C) Respite care facilities must update certain medical information required to be accessible to staff to respond to medical emergencies.	(A) In order to be consistent with other provisions throughout this regulation, *the proposal adds the parent, in addition to the legal guardian, as a party to the legal agreement addressing arrangement for the resident’s health services. (C) *The proposal removes the separate provision applicable to respite care facilities, as these facilities are not regulated by the board. The proposal makes additional edits for style, which will have no impact.
1180	N/A	Health trained personnel:	The proposal makes minor style edits.
1190	N/A	Consent and refusal of health care services: (A) Informed consent to health care procedures must be obtained from the resident, parent, guardian, or legal custodian as required by law. This subsection provides a definition for informed consent.	The proposal removes the reference to “informed consent” as the term is used only once in this chapter. The proposal describes the consent facilities must obtain before residents may receive certain health care procedures in accordance with § 54.1-2969 of the Code. The proposal also replaces “juvenile residential facility” with “provider” for the reasons described in the summary to § 90. These changes are intended to clarify and will have no additional impact.
1200	N/A	Health screening at admission: (1) To prevent new residents who pose a health or safety threat from being admitted into general population, upon admission, all residents immediately must undergo a preliminary health screening, outside the presence of their parent or guardian if such information would violate confidentiality. The health screening must include a structured interview and observation by health care personnel or health-trained staff.	(1) The proposal amends the language so that the objective of the preliminary health screening process is not to prevent such residents from being admitted to the general population, but rather to prevent such residents from jeopardizing the health of other residents. This subtle change acknowledges that “general populations” are not applicable to group homes or similar settings and clarifies the provision’s goal of protecting each resident. (2) For the reason stated above, *the proposal strikes the provision

		(2) Admitted residents who pose a health threat to themselves or others shall not be admitted to general population but shall receive comparable services.	prohibiting admission of residents who pose a threat to the general population and replaces it with a mandate that staff separate these residents from all other residents in the facility. This change will guide facility leadership regarding placing residents who may pose a threat. Additional minor edits will have no impact.
1210	N/A	<p>Tuberculosis screening:</p> <p>(A) Within 7 days of placement, each resident shall have had a screening assessment for tuberculosis, which can be no older than 30 days.</p> <p>(B) – A screening assessment for tuberculosis shall be completed annually on each resident.</p>	(A - B) The reference to a “screening assessment” combines two terms with two different meanings, which has generated some confusion among the regulated community. *The proposal replaces this term with “risk assessment” to reflect the type of initial assessment conducted. *Additionally, the proposal provides that the risk assessment must be conducted within seven days of arrival at a facility, rather than within 7 days of placement (defined as the activity that assists in locating and effecting the movement of a resident to a juvenile residential facility). A resident’s placement date may occur in advance of his arrival date, and this change will ensure that there is sufficient time to secure the risk assessment. This change is consistent with DJJ’s current interpretation of the language. *The proposal also adds language allowing such risk assessment to be administered by health-trained personnel but limiting the individuals authorized to interpret its results solely to physicians, physician assistants, nurse practitioners, or registered nurses, consistent with guidance issued by the Virginia Department of Health. Additionally, the proposal imposes a new requirement that the facility demonstrate completion of the annual risk assessment by providing documentation by a medical professional or by completion of an assessment form containing the elements on the health department’s current assessment form.
1220	N/A	<p>Medical examination and treatment: (A) Currently, each resident must receive a physical by or under the direction of a licensed physician no earlier than 90 days before admission to the</p>	(A) *The proposal modifies the provision so that a physical may be completed no earlier than 90 days before and no later than 7 days after admission for residents accepted into the facility as planned admissions

		facility or no later than seven days following admission. This provision does not apply to shelter care residents. An exam conducted within the preceding 12 months is acceptable in lieu of a new physical if a resident has transferred from a state-licensed or state-certified facility. A physical also shall be conducted within 30 days following an emergency admission if a report of a physical is not available.	(admission after evaluation of an application). *Residents accepted as emergency admissions must have a physical completed within 90 days following emergency admission. When residents are admitted to juvenile residential facilities outside of the planned admission process, frequently, 30 days is not enough time to complete their physicals. The proposal allows for additional time for these types of admissions.
1230	N/A	Infectious or communicable diseases: Facilities must implement written procedures that require staff to be trained in standard precautions, initially and annually thereafter.	The proposal adds a cross reference to §§ 200, applicable to required initial training, and 210, which imposes annual training requirements. These changes are intended to clarify and will have no additional impact.
1240	N/A	Suicide prevention: Providers must have written procedures that provide for a suicide prevention and intervention program developed in consultation with a qualified medical or mental health professional. All direct care staff must be trained in the program.	*The proposal imposes these provisions as outright regulatory requirements rather than directing facilities to have written procedures containing these requirements. Additionally, the proposal clarifies that staff training must accord with the required initial and annual training requirements in §§ 200 and 210. Because these changes seek to provide clarity, they are not expected to have an additional impact on facility operations.
1250	N/A	Resident’s health care records: This provision sets out the requirements for properly maintaining health records of residents in group homes and similar facilities. (C) The physical examination report must include, among other information, the resident’s allergies, chronic conditions, and handicaps. (D) The resident’s health record must document, in writing, an annual exam by a licensed dentist, and any follow-up dental care. Shelter care and respite care facilities are excluded from this requirement.	(C) The proposal replaces references to “handicaps” with “disabilities, per guidance from the National Disability Authority. (D) *The proposal strikes respite care facilities from the programs exempted from this requirement. Because respite care facilities are not certified or regulated by the department, this change will have no additional impact. The proposal also replaces references to “health record” with “health care record,” consistent with the defined term in § 10. The change will provide clarity to regulated entities. The proposal makes additional edits for style, which will have no impact.
1260	N/A	First aid kits: (A) Facilities must maintain first aid kits with an inventory of their contents.	(A) *The proposal adds a requirement that a kit be maintained in the facility and in facility vehicles used to transport residents. This amendment will help staff respond to minor resident injuries while transporting residents off

		(B) Such kits should be monitored in accordance with established facility procedures.	site and is consistent with most facilities' practices. (B) *The proposal amends the language to mandate, rather than recommend, that facilities monitor these kits in accordance with procedures. This amendment is not expected to impact facility operations because the department assesses compliance with this provision as if it were a directive, rather than a recommendation.
41-1270	N/A	Hospitalization and other outside medical treatment of residents: When a resident requires off-site medical treatment: (A)(1) the resident shall be transported safely, and (A)(2) a parent or legal guardian, staff member, or law enforcement officer, as appropriate, shall accompany the resident and stay during admission.	(A)(1) The proposal strikes the provision requiring the resident to be transported safely as vague and unnecessary. Pursuant to § 550, addressing resident transportation, each facility shall have written safety rules for transporting residents, and, if applicable, for using and maintaining vehicles. The proposal reflects a similar change to the JDC regulations. New (A)(1) *The proposal modifies this provision to require the facility to ensure that one of the three named parties accompanies the resident to the medical facility and remains with the resident through admission to the medical facility. The department does not have the authority to regulate law-enforcement officers or parents/legal guardians. The department can ensure, through its own efforts, that the resident is accompanied by one of these individuals. The proposal adds an exception that gives the facility the authority to send a staff member to the medical facility as soon as reasonably possible in those situations in which sending a staff member with the resident would create staffing challenges. This will allow the facility to manage staffing. New (A)(3) The proposal adds a provision requiring the facility to comply with the notification requirements set out in § 550 when third parties conduct the transport. The proposal makes additional, minor changes that will have no other impact.
41-1280	N/A	Medication: (E) A program of medication, including procedures that address using over-the-counter medication pursuant to written or verbal orders signed by	(E) The proposal seeks to clarify confusing language. The provision's intent is to prohibit staff from administering medication that has not been prescribed in writing by a person

		<p>personnel legally authorized to give such orders must be initiated for a resident only if prescribed by a person legally authorized to make such prescriptions.</p> <p>(F) Medications must be administered consistent with requirements of § 54.2-2408 of the Code of Virginia.</p> <p>(H) The proposal defines medication incident as “an error in administering medication to a resident...” and lists among the types of incidents excluded from the definition, “a resident’s refusal of appropriately offered medication.</p>	<p>authorized to write such prescriptions, and this prohibition extends to over-the-counter medication. Because this provision clarifies existing language, it is not expected to have an impact.</p> <p>(F) The proposal corrects the erroneous citation.</p> <p>(H) The proposal moves the definition of medication incident to §10 and *amends the definition by excluding instances in which a facility fails to administer medication due to repeated, unsuccessful attempts to obtain such medication. This change will prevent facilities from being assessed for noncompliance when staff, despite repeated attempts, are unable to secure the medication. This is consistent with a similar change proposed to the JDC regulations.</p>
41-1290	N/A	<p>Behavior management: This provision defines behavior management and sets out the information that must be contained in written procedures governing behavior management programs.</p>	<p>The proposal moves the definition of behavior management to § 10 of the chapter. Several additional nonsubstantive changes are made, including replacing references to legal guardians with “parents or legal guardians” and clarifying that staff must complete required trainings in behavior management, rather than “all” such trainings. None of these amendments will have an impact.</p>
41-1300	N/A	<p>Behavior support: This provision sets out the requirements for facility behavior support plans designed for residents who need additional supports beyond those in the behavior management program.</p> <p>(C) Staff members must review and be prepared to implement the resident’s behavior support plan prior to working alone with an assigned resident.</p>	<p>(C) *The proposal removes the requirement that staff review the support plan and be ready to implement it before working alone with the resident. The current restriction is more appropriate in the context of a safety plan than a behavior support plan.</p>
41-1310	N/A	<p>Timeout: (A) Facilities may use timeouts, defined here as systematic behavior management techniques in which staff move a resident away from reinforcement for a specified period to reduce or eliminate inappropriate behavior.</p> <p>(A)(2) The conditions and maximum period of timeout are founded on the resident’s chronological and developmental level.</p>	<p>(A) The proposal moves the definition for timeout to § 10.</p> <p>(A)(2) The proposal strikes the requirement to base facility use of timeout on the resident’s chronological and developmental levels. These factors do not necessarily impact the efficacy of timeouts as a tool for behavior management.</p> <p>New (A)(4) The proposal removes subsection B in its entirety and moves some of its requirements into this new</p>

		<p>(A)(5) When a resident is placed in timeout, staff must check on the resident at 15-minute intervals or more frequently depending on the resident's disability, condition, and behavior.</p> <p>(B) Timeouts and staff checks shall be documented.</p>	<p>subdivision. Under the new language, staff shall monitor the resident every 15 minutes or more often depending on the circumstances. This change contemplates the possibility that external factors or other circumstances outside of the resident's disability, condition, or behavior may necessitate increasing the frequency of such checks. *The proposal also adds a requirement that staff evaluate and document whether the resident is ready to be released from timeout during each such check. This may result in a minor increase in staff workload in facilities that currently use timeouts but do not document whether the resident is ready to be released at each check. Having this additional provision in place will ensure that residents remain in timeout only for as long as is necessary to address the problematic behavior. The proposal makes additional style changes.</p>
41-1320	N/A	<p>Physical restraint: (A) Staff in facilities may use physical restraint as a last resort, only after less restrictive methods failed or to control residents whose conduct threatens their or other's safety.</p> <p>(A)(2) Staff may physically restrain a resident only after less restrictive interventions failed or when failure to restrain would harm the resident or others.</p> <p>(A)(4) The proposal defines physical restraint as a technique to prevent an individual from moving his body.</p>	<p>(A)(2) The proposal strikes the existing provision in(A)(2), as it repeats language in the first paragraph.</p> <p>(A)(4) The proposal moves the definition of physical restraint to § 10 of the regulation and makes numerous additional minor edits for style. These changes will have no additional impact.</p>