

CHAPTER 128**MANUAL OF REQUIREMENTS FOR
CHILDREN'S GROUP HOMES****Authority**

N.J.S.A. 30:1-14 and 15 and 30:4C-4.

Source and Effective Date

R.2006 d.433, effective November 17, 2006.
See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 128, Manual of Requirements for Children's Group Homes, expires on May 16, 2014. See: 46 N.J.R. 7(a).

Chapter Historical Note

Chapter 128, Manual of Standards for Group Homes, was adopted as R.1977 d.287, effective August 9, 1977. See: 9 N.J.R. 277(c), 9 N.J.R. 433(b).

Chapter 128, Manual of Standards for Group Homes, was repealed, and a new Chapter 128, Manual of Requirements for Children's Group Homes, was adopted as R.1991 d.66, effective February 19, 1991. See: 22 N.J.R. 2916(a), 23 N.J.R. 476(a).

Public Notice: Annual certification of facility standards pursuant to the Keys Amendment to the Social Security Act. See: 24 N.J.R. 656(a).

Public Notice: Annual certification of facility standards pursuant to the Keys Amendment to the Social Security Act. See: 25 N.J.R. 603(a).

Pursuant to Executive Order No. 66(1978), Chapter 128, Manual of Requirements for Children's Group Homes, was readopted as R.1996 d.118, effective January 31, 1996. See: 27 N.J.R. 4266(a), 28 N.J.R. 1379(c).

Pursuant to Executive Order No. 66(1978), Chapter 128, Manual of Requirements for Children's Group Homes, expired on January 31, 2001.

Chapter 128, Manual of Requirements for Children's Group Homes, was adopted as new rules by R.2001 d.171, effective May 21, 2001. See: 33 N.J.R. 188(a), 33 N.J.R. 1612(a).

Chapter 128, Manual of Requirements for Children's Group Homes, was readopted as R.2006 d.433, effective November 17, 2006. See: Source and Effective Date. See, also, section annotations.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 128, Manual of Requirements for Children's Group Homes, was scheduled to expire on November 17, 2013. See: 43 N.J.R. 1203(a).

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SUBCHAPTER 1. GENERAL REQUIREMENTS

10:128-1.1 Legal authority

(a) This manual is promulgated pursuant to N.J.S.A. 30:1-14 and 15, 30:4C-4 and 30:11B-4.

(b) Under N.J.S.A. 30:1-14, 30:4C-4 and 30:11B-4, the Department of Children and Families is authorized to inspect, evaluate and approve publicly or privately operated homes that provide board, lodging, care and treatment services for children who are placed and/or financed by the Division of Youth and Family Services or any other New Jersey State agency.

(c) Under N.J.S.A. 30:1-14 and 30:11B-4, the following homes shall be subject to inspection, evaluation and approval by the Department of Children and Families:

1. New Jersey-based children's group homes, as defined in this manual, except homes that are licensed, approved or regulated pursuant to State law by the State Department of Health and Senior Services, by the State Department of Education, by the State Department of Corrections, by the State Department of Human Services or by any other New Jersey State agency; and

2. Out-of-State children's group homes, as defined in this manual, that serve children under the supervision of the Division of Youth and Family Services. As a condition of approval by the Department, such group homes shall be licensed, certified, or otherwise approved to operate in the state where the home is located.

(d) In order to be approved, a children's group home shall demonstrate to the satisfaction of the Department of Children and Families or its duly authorized agent that it complies with all applicable provisions of this manual.

(e) Responsibility for ensuring that these homes comply with the provisions of the statutes cited in (a) above and of this manual is assigned by the Department of Children and Families to the Office of Licensing. The Office is authorized to visit and inspect such homes, as described in N.J.A.C. 10:128-1.2(a) and (b), to determine the extent of their compliance with such provisions.

(f) Under N.J.S.A. 30:1-15, the Department of Children and Families is also authorized to visit and inspect publicly or privately maintained institutions or other institutions and non-institutional agencies that:

1. Provide board, lodging or care for children who are not placed or financed by the Department of Children and Families or any other New Jersey State agency; and

2. Are not subject to licensing or regulation by any New Jersey State agency.

(g) The Office of Licensing is authorized to visit and inspect such homes as described in (f) above to assess the general health, safety, and well-being of the children and the care and treatment they are receiving, but cannot require their compliance with this manual and must secure an order from a court of competent jurisdiction, pursuant to N.J.S.A. 30:1-16, to compel correction of serious deficiencies.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

Substituted "Children and Families" for "Human Services" throughout; in (b), deleted "N.J.S.A." preceding "30:4C-4"; in the introductory paragraph of (c), deleted "Division of Youth and Family Services"; in (c)1, deleted "Division of Developmental Disabilities or the Division of Mental Health and Hospitals, both of the Department of Human Services, by the" and inserted "and Senior Services" and "by the State Department of Human Services"; in (e), substituted "assigned" for "delegated" and "Office" for "Division of Youth and Family Services, Bureau" and "Division"; and in (g), substituted "Office of Licensing" for "Division of Youth and Family Services".

Amended by R.2010 d.109, effective June 21, 2010.

See: 41 N.J.R. 4170(a), 42 N.J.R. 1200(b).

In (a), (b), and the introductory paragraph of (c), inserted "and 30:11B-4"; in (a), deleted "and N.J.S.A." preceding "30:4C-4"; in (b), substituted a comma for "and" preceding "30:4C-4" and deleted a comma following "evaluate"; in the introductory paragraph of (c), deleted a comma following "evaluation"; in the introductory paragraph of (f), substituted "non-institutional" for "noninstitutional"; and in (f)1, substituted "Department of Children and Families" for "Division of Youth and Family Services".

10:128-1.2 Definition and types of children's group homes

(a) "Children's group home" or "home" means any public or private establishment other than a foster home that provides board, lodging, care and treatment services on a 24-hour basis to 12 or fewer children in a homelike, community-based setting, except that psychiatric community homes for children may have a capacity of 15 or fewer children.

(b) Children's group homes that are subject to the provisions of this manual that typically serve children with less severe behavioral and emotional problems who are capable of functioning in a home-based setting are classified as follows:

1. Group home, which serves from six to 12 children with emotional, social, physical and/or behavioral needs who do not require a more restrictive facility for their own protection or that of others;

2. Supervised transitional living home, which serves 12 or fewer children who are 16 years of age or older, require minimum guidance from staff members in preparation to live independently, and demonstrate maturity to function with minimal adult supervision;

3. Teaching family home, which serves 12 or fewer children with emotional, behavioral or other disabilities and which is certified or in the process of being certified as a teaching family home in accordance with the standards of the National Teaching Family Association. Teaching family homes are used for children who require strong professional support and guidance to participate in the life of the community, but who do not require a more restrictive facility for their own protection or that of others;

4. Treatment home, which is an agency-operated residence serving five or fewer children who are capable of community living but who need a small group environment and intensive supervision by staff members in order to ameliorate emotional, social and/or behavioral difficulties;

5. Alternative care home, which is an agency-operated residence serving three or fewer children with emotional, behavioral or other disabilities and which is certified or is in the process of being certified as an alternative care home in accordance with the standards of the National Teaching Family Association. Alternative care homes are used for children who require strong professional support and guidance to participate in the life of the community, but who do not require a more restrictive facility for their own protection or that of others; and

6. Psychiatric community homes for children, which are community residential programs that provide food, shelter and personal guidance on a 24-hour basis, under such supervision as required, to not more than 15 mentally ill children who require assistance. These homes are funded by or contracted with the Department for children who have received or may be at risk of inpatient care in an inpatient facility and who may benefit from psychiatric treatment within a community home, so as to avert more intensive treatment or to facilitate their return home or placement in a longer term residential facility. Such homes are not considered a health care facility within the meaning of the "Health Care Facilities Planning Act," P.L. 1971, c. 136.

Amended by R.1999 d.337, effective October 4, 1999.

See: 31 N.J.R. 1436(a), 31 N.J.R. 2886(a).

In (b), in the introductory text, inserted "that typically serve children with less severe behavioral and emotional problems who are capable of functioning in a home-based setting", and added (b)5.

Amended by R.2010 d.109, effective June 21, 2010.

See: 41 N.J.R. 4170(a), 42 N.J.R. 1200(b).

In (a), inserted "except that psychiatric community homes for children may have a capacity of 15 or fewer children"; in (b)4, deleted "and" from the end; in (b)5, substituted "and" for a period at the end; and added (b)6.

Law Review and Journal Commentaries

Municipal Land Use—Group Homes. P.R. Chenoweth, 136 N.J.L.J. No. 10, 57 (1994).

Case Notes

Use of former single-family residence as group home for girls would not impermissibly expand nonconforming use. *Institute for Evaluation and Planning, Inc. v. Board of Adjustment*, 270 N.J.Super. 396, 637 A.2d 235 (L.1993).

10:128-1.3 Definitions

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

"Adventure activity" means a planned activity of a wilderness or athletic nature that requires specially trained staff members and/or special equipment that is utilized with chil-

dren to assist in their development of self-confidence and insight.

“Agency” means an organization which has received a certificate of approval from the Office of Licensing to operate more than one group home, treatment home, and/or supervised transitional living home.

“Certificate of approval” or “certificate” means a document issued by the Office of Licensing to a home or agency indicating that the home or agency is in substantial compliance with all applicable provisions of this chapter, and there is no serious or imminent hazard to the education, health, safety, well-being or treatment needs that exists in the home or agency affecting the children.

“Child” means any person who is under 18 years of age and/or any person between the ages of 18 and 21 who is under the supervision of the Department in placement in a children’s group home.

“Denial of a certificate” means the withholding by the Office of Licensing of an initial certificate of approval for which a home or agency has applied.

“Department” means the New Jersey Department of Children and Families.

“Director” means the on-site staff member responsible for the daily operation and management of a home.

“Division” means the Division of Youth and Family Services, New Jersey Department of Children and Families.

“Exclusion” means the removal of a child to an area or room in the home where there is limited or no stimulation. This removal is a therapeutic intervention and a time for the child to reflect on his or her behavior in order to gain control so he or she can return to the other children.

“Infant” means any person who is under the care of his or her adolescent mother in a home serving adolescent mothers.

“Manual of Requirements for Children’s Group Homes” or “manual” means the provisions contained in N.J.A.C. 10:128-1.1 to 10.25. These provisions constitute minimum baseline requirements below which no home that is subject to the authority of N.J.S.A. 30:1-14, 30:4C-4 and 30:11B-4 is legally permitted to operate.

“Office of Licensing” or “Office” means the Office of Licensing, New Jersey Department of Children and Families.

“Parent” means a birth or adoptive parent, legal guardian, or any other person having responsibility for, or custody of, a child.

“Person” means any individual, agency, corporation, company, association, organization, society, firm, partnership, joint stock company, the State or any political subdivision thereof.

“Placing agency” means an agency that assumes responsibility for payment of room and board for a child placed in a group home, teaching family home, supervised transitional living home, or treatment home.

“Quality assurance” means a program or set of activities designed to monitor, evaluate and improve care or services provided in order to enhance the health of clients and the effective use of resources.

“Refusal to renew a certificate” means the non-issuance of a certificate of approval by the Office of Licensing to a home or agency after its existing certificate has expired.

“Restraint” means the holding of a child so that he or she cannot move all or part of his or her body, including those instances when staff physically escort the child.

“Restrictive behavior management practice” means the use of physical restraint and exclusion as part of a comprehensive treatment plan to help the child develop self-control, to reduce maladaptive behavior or to protect the child and others from harm.

“Revocation of a certificate” means a permanent removal of a home’s or agency’s current certificate of approval to operate.

“Risk management” means clinical and administrative activities designed to detect, prevent or reduce risks that could impair client care or client, staff or visitor comfort or safety.

“Shall” denotes a provision of this manual that a home or agency must meet to qualify for a certificate of approval.

“Should” denotes a recommendation reflecting goals towards which a home or agency is encouraged to work.

“Staff member” or “staff” means any person employed by or working for or at a home or agency on a regularly scheduled basis. This includes full-time, part-time, substitute, volunteer, student intern, contract or consulting personnel, whether compensated or not.

“Suspension of a certificate” means a temporary removal of a home’s or agency’s current certificate of approval to operate.

“Time out” means instructing a child to calm down and remain quiet for a brief period of time as a means of discipline and to teach the child self-control. A time out may occur in the presence of other staff members and children or in an area of the home where the child has access to stimulation or activities such as a library or the child’s bedroom.

“Utilization review” means the process of using predefined criteria to evaluate the appropriateness of admissions and continued stays and whether clients are receiving the services best suited to their needs.

Amended by R.1996 d.118, effective March 4, 1996.

See: 27 N.J.R. 4266(a), 28 N.J.R. 1379(c).

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

Substituted "Office of Licensing" for "Bureau" and "Children and Families" for "Human Services" throughout; deleted definition "Bureau"; in definition "Certificate of approval", inserted "or agency" following "home" throughout; added definition "Office of Licensing"; in definitions "Refusal to renew a certificate" and "Staff member", inserted "or agency"; and in definitions "Revocation of a certificate" and "Suspension of a certificate", inserted "or agency's".

Amended by R.2010 d.109, effective June 21, 2010.

See: 41 N.J.R. 4170(a), 42 N.J.R. 1200(b).

In definition "Child", substituted "Department" for "Division"; in definition "Manual of Requirements for Children's Group Homes", substituted a comma for "and N.J.S.A." preceding "30:4C-4" and inserted "and 30:11B-4"; and added definitions "Quality assurance", "Risk management" and "Utilization review".

SUBCHAPTER 2. APPROVAL PROCEDURES

10:128-2.1 Application for a certificate of approval

(a) No person shall operate a children's group home that provides board, lodging, care and treatment services for children who are placed or financed by the Department or any other New Jersey State agency without first securing a certificate of approval from the Office of Licensing, except for homes that are subject to licensing or regulatory approval pursuant to State law by any other New Jersey State agency.

1. Each group home, supervised transitional living home serving six or more children, each teaching family home regardless of capacity and psychiatric community homes for children shall obtain an individual certificate of approval.

2. Each agency operating more than one treatment home or alternative care home, or more than one supervised transitional living home serving five or fewer children, shall secure and maintain a single certificate for all such homes in its program, along with a certificate for each approved home. The agency shall ensure and document that individual treatment homes, alternative care homes and supervised transitional living homes serving five or fewer children comply with the provisions of this manual.

(b) A home or agency applying to the Office of Licensing for an initial certificate of approval shall submit a completed application form to the Office, including the documentation specified in N.J.A.C. 10:128-4.1(a), (b) and (c), at least 45 calendar days prior to the anticipated opening of a home.

(c) A home or agency applying to the Office of Licensing for a renewal of its certificate of approval shall submit a completed application form to the Office, including the documentation specified in N.J.A.C. 10:128-4.1(d), at least 45 calendar days prior to the expiration of its existing certificate.

(d) An agency submitting an initial application for a certificate of approval for a psychiatric community home for children or subsequent renewal of that certificate shall pay the

fee as described below. Checks shall be made payable to the "Treasurer, State of New Jersey." No certificate of approval shall be issued by the Department until payment of this fee has been received by the Department. Failure to pay the renewal fee applicable to an existing certificate of approval shall result in the revocation of that certificate of approval. The fee schedule is as follows:

1. Initial and single renewal application is \$575.00; and

2. Renewal for each site for agencies with more than one psychiatric community home for children is \$287.50.

Amended by R.2005 d.374, effective November 7, 2005.

See: 37 N.J.R. 1942(a), 37 N.J.R. 4263(a).

In (a), rewrote 2 and deleted 3.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In the introductory paragraph of (a), substituted "Department" for "Division" and "Office of Licensing" for "Bureau"; in the second sentence of (a)2, deleted "Bureau-approved" preceding "agency"; and in (b) and (c), substituted "Office of Licensing" for first occurrence of "Bureau" and "Office" for second occurrence of "Bureau".

Amended by R.2010 d.109, effective June 21, 2010.

See: 41 N.J.R. 4170(a), 42 N.J.R. 1200(b).

In (a)1, substituted a comma for "and" preceding "supervised" and following "children" and inserted "and psychiatric community homes for children"; and added (d).

Case Notes

Use of former single-family residence as group home for girls would not impermissibly expand nonconforming use. *Institute for Evaluation and Planning, Inc. v. Board of Adjustment*, 270 N.J.Super. 396, 637 A.2d 235 (L.1993).

10:128-2.2 Issuance of a certificate of approval

(a) The Office of Licensing shall issue a certificate of approval to a home or agency that has achieved substantial or full compliance with all applicable provisions of this chapter.

(b) If the Office of Licensing determines that a home or agency cannot be issued a certificate of approval because there is serious or imminent hazard to the education, health, safety, well-being or treatment needs of the children, the Office shall issue a written notification to the home or agency indicating the steps the home or agency must take to secure a certificate of approval.

(c) Each certificate period shall be two years.

1. In determining the expiration date of the first certificate of approval, the Office of Licensing shall compute the two-year approval period from the date of issuance of the first certificate.

2. In determining the expiration date of a renewed certificate, the Office of Licensing shall compute the two-year approval period from the date on which the previous certificate expired. If, however, the home or agency has ceased to operate for a period of one year following the expiration date of its previous certificate, the Office shall compute the date of expiration from the date of issuance of a new certificate.

(d) The certificate of approval shall be issued to a specific home or agency and shall not be transferable.

(e) The home or agency shall maintain its certificate of approval on file.

(f) No home or agency shall make claims either in advertising or in any written or verbal announcement or presentation contrary to its approval status.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In (a) and (c)1, substituted "Office of Licensing" for "Bureau"; in (b) and (c)2, substituted "Office of Licensing" for first occurrence of "Bureau" and "Office" for second occurrence of "Bureau"; and in (e), inserted "or agency".

Law Review and Journal Commentaries

Municipal Land Use—Group Homes. P.R. Chenoweth, 136 N.J.L.J. No. 10, 57 (1994).

Case Notes

Use of former single-family residence as group home for girls would not impermissibly expand nonconforming use. *Institute for Evaluation and Planning, Inc. v. Board of Adjustment*, 270 N.J.Super. 396, 637 A.2d 235 (L.1993).

10:128-2.3 Denying, suspending, revoking or refusing to renew a certificate of approval

(a) The Office of Licensing may deny, suspend, revoke or refuse to renew a certificate of approval for good cause, including, but not limited to, the following:

1. Failure to comply with the provisions of this manual;
2. Violation of the terms and conditions of a certificate of approval;
3. Fraud or misrepresentation in obtaining a certificate;
4. Refusal to furnish the Department with files, reports or records as required by this manual;
5. Refusal to permit an authorized representative of the Department to gain admission to the home or agency or to conduct an inspection or investigation;
6. Any activity, policy, or staff conduct that adversely affects or is deemed by the Office of Licensing to be detrimental to the education, health, safety, well-being or treatment needs of children or that otherwise demonstrates unfitness by the owner or staff members of the home to operate a children's group home;
7. Failure of an out-of-State home or agency to maintain a license, approval or certification in its own state;
8. Failure by the agency or director to secure and to maintain on file documentation from the Department showing compliance with criminal conviction disclosures, as specified in N.J.A.C. 10:128-5.1(b)1, Criminal History Record Information background checks, as specified in

N.J.A.C. 10:128-5.6, or Child Abuse Record Information background checks, as specified in N.J.A.C. 10:128-5.7;

9. Refusal by the director, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent or household member to consent to or cooperate in a Criminal History Record Information background check or Child Abuse Record Information background check for himself or herself;

10. Refusal by the director to terminate the employment of a staff member who refuses to consent to or cooperate in a Criminal History Record Information background check or Child Abuse Record Information background check;

11. Refusal by the director to terminate the employment of a staff member when an allegation of child abuse or neglect has been substantiated against the staff member;

12. Refusal by the director to terminate the employment of a staff member convicted of a crime or offense requiring disqualification, as specified in N.J.A.C. 10:128-5.6(e);

13. A substantiated allegation of child abuse or neglect against the director, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent or household member; and

14. Conviction by the director, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent or household member for a crime or offense requiring disqualification, as specified in N.J.A.C. 10:128-5.6(e).

(b) The Office of Licensing shall provide written notice to the home or agency if it intends to deny, suspend, revoke or refuse to renew its application for a certificate. This notice shall specify the Office's reasons for such action.

(c) If the Office of Licensing denies, revokes, or refuses to renew a certificate of approval, as specified in (a) above, the home or agency shall be prohibited from reapplying for a certificate of approval for one year from the date of certificate denial, revocation or refusal to renew. After the one-year period has elapsed, the home or agency may submit to the Office a new application for a certificate.

(d) If a certificate is suspended, the Office of Licensing shall issue or reinstate the certificate once the home or agency achieves compliance with the provisions of this manual. In such a case, the Office shall not require the home or agency to submit a new application for a certificate unless such reapplication is expressly made a condition of the issuance or reinstatement of the certificate.

(e) Each certificate of approval issued by the Office of Licensing to a home or agency remains the property of the State of New Jersey. If the Office suspends or revokes a certificate of approval, the home or agency shall return the certificate of approval to the Office immediately.

Amended by R.2005 d.374, effective November 7, 2005.

See: 37 N.J.R. 1942(a), 37 N.J.R. 4263(a).

In (a), rewrote 7 and 8 and added 9 through 14.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

Substituted "Office of Licensing" for first occurrence of "Bureau" throughout; in (a)4 and (a)5, substituted "Department" for "Division"; in (a)5 and (a)7, substituted "home or agency" for "home, agency or agency-approved home"; in (b), substituted "Office's" for "Bureau's"; in (c) and (d), substituted "Office" for second occurrence of "Bureau"; and in (e), substituted "Office" for second and third occurrences of "Bureau".

Case Notes

Regulations pertaining to group homes apply only to those operated by Division of Youth and Family Services; proposed use of property by Department of Corrections for group home is not statutorily exempt from local zoning ordinance prohibiting such use; actions of Department in approving plan were arbitrary and unreasonable despite qualified immunity from zoning regulations provided by Municipal Land Use Law (cited as N.J.A.C. 10:128-3). *Pemberton Twp. v. State*, 171 N.J. Super. 287, 408 A.2d 832 (Law Div.1979), reversed 178 N.J. Super. 346, 429 A.2d 360 (App.Div.1981), certiorari denied 87 N.J. 364, 434 A.2d 1053 (1981).

10:128-2.4 Administrative hearings

(a) If a home or agency fails to comply with all applicable provisions of this manual, the Office of Licensing shall issue a directive ordering compliance. Prior to the Office's decision to deny, suspend, refuse to renew or revoke a home's or agency's certificate of approval, the home or agency shall have the opportunity to request an administrative hearing, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) As long as the Department determines that children are not at risk and that no imminent dangers exist, the Office of Licensing may permit a home or agency that has requested an administrative hearing, as specified in (a) above, to continue to operate until a final decision is rendered as a result of the hearing.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In (a) and (b), substituted "Office of Licensing" for "Bureau"; in (a), substituted "Office's" for "Bureau's"; and in (b), substituted "Department" for "Division".

10:128-2.5 Complaints

(a) Whenever the Office of Licensing receives a report questioning the approval status or compliance of a home or agency or alleging a violation of this manual, the Office shall ensure that the allegation is promptly investigated to determine whether the complaint is substantiated.

(b) After the report of the investigation has been completed, the Office of Licensing shall notify the home or agency in writing of the results of the investigation within 15 days, pursuant to the State Public Records Law, N.J.S.A. 47:1A-1 et seq., with the exception of any information not permitted to be disclosed pursuant to the Child Abuse and Neglect Law, N.J.S.A. 9:6-8.10a, or any other State law.

(c) Whenever the Department, through its Office of Licensing, Institutional Abuse Investigation Unit or other offices, conducts complaint investigations, the home or agency shall cooperate with all Department investigators.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

Substituted "Office of Licensing" for first occurrence of "Bureau" throughout; in (a), substituted "Office" for second occurrence of "Bureau"; and in (c), substituted "Department" for "Division" two times and "other offices" for "District Offices".

10:128-2.6 Public access to licensing records

Licensing files maintained by the Office of Licensing are public records and shall be readily accessible for examination by any person, under the direction and supervision of the Office, except when public access to records is restricted, in keeping with the State Public Records Law, N.J.S.A. 47:1A-1 et seq., or other applicable statutes.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

Section was "Public access to the Bureau's licensing records". Substituted "Office of Licensing" for first occurrence of "Bureau" and "Office" for second occurrence of "Bureau".

SUBCHAPTER 3. ADMINISTRATION

10:128-3.1 Statement of purpose

(a) The home or agency shall maintain on file a written statement of purpose that shall identify the following:

1. The home's philosophy, goals, and objectives;
2. Characteristics of the children to be served;
3. Types of treatment services provided to the children, including those provided directly by the home and those provided in cooperation with community agencies or outside individuals;
4. Procedures for implementing those services; and
5. Criteria for successful completion of the program.

(b) The home or agency shall give this statement of purpose to the parents of the children applying for services, to all staff members and to all persons who request this information.

(c) The home or agency shall secure and maintain on file a record of the parents' and staff members' signatures attesting to their receipt of the statement of purpose.

10:128-3.2 Rights of children

(a) The home or agency shall prepare a list of children's rights and shall post it in a prominent location in each home or give it to the children and document such in each child's record. At a minimum, the list shall specify the children's right to:

1. Receive prompt medical treatment;
2. Have access to an appropriate education;
3. Live in a safe, clean and healthy environment;
4. Be free of physical or sexual harassment or abuse and corporal punishment;
5. Attend religious services of their choice; and
6. Have unimpeded communication to the Department.

(b) The home or agency shall give this list of children's rights to the parents of the children applying for admission, to all staff members and to all persons who request this information.

(c) The home or agency shall secure and maintain on file a record of the parents' and staff members' signatures attesting to their receipt of the list of children's rights.

(d) If the home or agency chooses to develop a search and seizure policy, the home or agency shall give all children, staff and parents a copy of this policy, as specified in N.J.A.C. 10:128-6.15.

(e) The home or agency shall prepare, post or give to all staff members and children a written grievance procedure governing how the children may raise questions about or voice disagreements with and concerns about procedures, care, and specific incidents. The home or agency shall not take or threaten to take retaliatory or disciplinary action of any kind against a child who uses the grievance procedure or files a grievance. The home shall provide a procedure to explain the above to children who are developmentally disabled.

Amended by R.2010 d.109, effective June 21, 2010.

See: 41 N.J.R. 4170(a), 42 N.J.R. 1200(b).

In (a)6, substituted "Department" for "Division".

10:128-3.3 Information to parents and staff members

(a) The home or agency shall provide to every parent within five working days of his or her child's placement, and to every person upon becoming a staff member, a written document indicating that the home or agency is required to:

1. Secure a certificate of approval to operate from the Office of Licensing;
2. Comply with all applicable provisions of the manual;
3. Retain a current copy of the manual and make it available for review by parents of resident children;
4. Indicate how parents may secure a copy of the manual by contacting the Office of Licensing, Department of Children and Families, PO Box 717, Trenton, New Jersey 08625-0717;
5. Afford parents the opportunity and time to review and discuss with the home or agency director any questions

or concerns about policies, requirements, provisions, or alleged violations of the manual;

6. Advise parents that if they believe or suspect that the home or agency is in violation of any provision of the manual, they may report such alleged violations to the Office of Licensing;

7. Make available, upon request, for parents' review the Office's Inspection/Violation and Complaint Reports on the home or agency, as well as any letters of enforcement or other actions taken against the home or agency during the current certificate of approval period;

8. Inform parents that they may request a copy of the home's or agency's behavior management policy, including policies for searches, as specified in N.J.A.C. 10:128-6.13, 6.14, and 6.15;

9. Inform parents that the home or agency is required to provide the child's parents with copies of the home's or agency's visitation and communication policies, a copy of the procedure for expressing concern or registering complaints regarding their child's placement, and a description of its religious policies, including a statement that the child has a right to practice his or her religion;

10. Indicate through this document that any person who has reasonable cause to believe that a child residing in the home has been or is being subjected to any form of hitting, corporal punishment, abusive language, ridicule, or harsh, humiliating, or frightening treatment, or any other kind of child abuse, neglect or exploitation by any person, whether working at the home or not, is required by State law to report such allegations to the Department's State Central Registry at 1-877-NJ-ABUSE (1-877-652-2873) immediately, and indicate that such reports may be made anonymously;

11. Indicate through this document how parents and staff members may secure information about the prevention and reporting of child abuse and neglect by contacting the Division of Youth and Family Services, Community Education Office, PO Box 717, Trenton, New Jersey 08625-0717;

12. Inform parents that the home or agency must secure written consent from the child's parents before the home or agency may involve the child in fund-raising, publicity, or audiovisual activities related to the home or agency; and

13. Inform parents that the home will develop a visitation schedule for parents and children, as specified in N.J.A.C. 10:128-6.6, 9.19 and 10.13.

(b) The home or agency shall comply with the requirements specified in (a) above by:

1. Securing the parent's and staff member's signature on a record attesting to receipt of the document; and
2. Maintaining the record on file; or

3. Documenting in the record the attempts made to secure the parent's signature.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In (a)1, substituted "Office" for "Bureau"; rewrote (a)4; in (a)6, substituted "Office of Licensing" for "Bureau"; in (a)7, substituted "Office's" for "Bureau's"; in (a)10, substituted "Department's State Central Registry at 1-877-NJ-ABUSE (1-877-652-2873)" for "Division's Office of Child Abuse Control, TOLL FREE at 1-800-792-8610, or any District Office"; and in (a)11, inserted "of Youth and Family Services, Community Education Office, PO Box 717, Trenton, New Jersey 08625-0717".

Amended by R.2010 d.109, effective June 21, 2010.

See: 41 N.J.R. 4170(a), 42 N.J.R. 1200(b).

In (a)4, substituted "Children and Families" for "Human Services", "717" for "707" and "0717" for "0707".

10:128-3.4 Community participation

(a) Every agency, group home and supervised transitional living home shall develop a governing board that offers advice and counsel to the home on its policies, staff recruitment and selection, physical environment, and program activities. Such a committee shall include representatives from the civic, business or educational community.

(b) The governing board shall establish policies that encourage and enhance community relations, such as having the home sponsor an open house.

(c) The director of the home shall ensure that community activities have been scheduled or completed and provide updates on community involvement to the governing board on a quarterly basis.

(d) The governing board shall meet at least quarterly. The home shall keep on file a list of current membership of the governing board and a record of its meetings.

10:128-3.5 Conflict of interest

(a) Any home or agency receiving funds from the Department shall adopt a written conflict of interest policy, as required by the home's or agency's contract with the Department of Children and Families.

1. The home or agency shall ensure that a copy of the adopted policy, with its effective date, is forwarded to all governing board members and staff members and is posted in a prominent location or kept on file at the home or agency.

2. The governing board shall ensure that the conflict of interest policy is adhered to by home or agency directors through the governing board's review of the home's or agency's policies involving the purchasing of goods or services and hiring practices.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In the introductory paragraph of (a), substituted "Department" for "Division" and "Children and Families" for "Human Services".

10:128-3.6 Intake and admissions

(a) The home or agency shall ensure that the child and his or her parents have an opportunity to visit the home prior to the child's placement.

(b) For all placements, the home or agency shall have the following information on file in the child's record upon the child's admission:

1. The child's full name, nicknames, if any, gender, date of birth, religion, and race;
2. The name, address, telephone number, and relationship to the child of the persons with whom the child was living at the time of admission;
3. The name, address, and telephone number of father, mother, foster parents, or legal guardians, if different from (b)2 above;
4. The name, address and telephone number of the case manager of the Department's local office or other placing agency;
5. The name, address, and telephone number of the person to notify in an emergency;
6. The names of siblings, their ages, and gender;
7. The reason for placement of the child;
8. A Medicaid card, if applicable; and
9. A statement signed by the parents or legal guardian, granting consent for emergency medical or surgical care, semi-annual dental care and annual physical examinations for the child.

(c) For non-emergency placements and emergency placements, in addition to (b) above the home or agency shall have the following information on file in the child's record within 30 calendar days of the child's admission:

1. Schools attended, grade level, and employer, if any;
2. Discharge summaries from previous placements, if any;
3. The child's medical history, including chronic conditions, past serious illnesses, allergies, medications, immunizations and special diet; and
4. A discharge plan, including the estimated duration of care.

(d) If the home or agency is unable to obtain the information specified in N.J.A.C. 10:128-3.6(c) within 30 calendar days of the child's admission, the home shall document in the child's file its efforts to obtain such information.

(e) For all placements into psychiatric community homes for children, in addition to (b) and (c) above, the home shall have the following information on file in the child's record within 10 working days of admission:

1. A current bio-psychosocial history;
2. A current psychiatric evaluation completed within the past 60 days;
3. A current child study team evaluation and individual education plan, as applicable; and
4. A description of the child's social, recreational, vocational and behavioral needs.

(f) Immediately following the child's admission, the home shall:

1. Give each child a secure place to store valuables;
2. Ask the child to sign or otherwise verify that a staff member explained house rules and regulations, children's rights as specified in N.J.A.C. 10:123-3.2, discipline policy and search and seizure policy, if any; and
3. Inform each child of fire exits and evacuation procedures.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In (b)4, substituted "Local" for "District".

Amended by R.2010 d.109, effective June 21, 2010.

See: 41 N.J.R. 4170(a), 42 N.J.R. 1200(b).

In (b)4, deleted a comma following "address" and substituted "Department's local office" for "Division's Local Office"; added new (e); and recodified former (e) as (f).

10:128-3.7 Reporting requirements

(a) The director or any staff member shall notify verbally the Department's State Central Registry at 1-877-NJ-ABUSE (1-877-652-2873) immediately whenever there is reasonable cause to believe that a child has been or is being abused or neglected by staff members, children or any other person, as required by the New Jersey Child Abuse and Neglect Law, N.J.S.A. 9:6-8.9, 8.10, 8.13 and 8.14. Copies of the law and information about it are available from the Division of Youth and Family Services, Community Education Office, PO Box 717, Trenton, New Jersey 08625-0717, upon request.

(b) The home or agency shall notify the Office of Licensing verbally of any of the following changes or events by the next working day after the home or agency learns of their occurrence, to be followed by written notification to the Office within five working days:

1. Injury, accident or illness that results in the admittance of a child to a hospital;
2. The death of a child while the child was on the premises of the home or in the care of a home staff member or volunteer;
3. Temporary or permanent closing of a home or agency; and
4. Any convictions or guilty pleas of any agency or home staff members that involve or affect any child or the

operation of the home or agency, as specified in N.J.A.C. 10:128-5.1(b).

(c) The home or agency shall notify the Office of Licensing verbally of any of the following changes or events by the next working day after the home or agency learns of their occurrence:

1. The occurrence of a reportable disease, as specified in Chapter 2 of the State Sanitary Code, N.J.A.C. 8:57;
2. Proposed relocation of the home to a site not approved by the local municipal officials and the Office of Licensing, as specified in N.J.A.C. 10:128-4.1;
3. Damage to the premises of the home caused by fire, accident or the weather; and
4. Proposed use of space involving rooms not approved by the Office of Licensing, as specified in N.J.A.C. 10:128-4.1(a)5.

(d) The home or agency shall notify the Office of Licensing in writing at least 30 calendar days before any of the following proposed changes or events:

1. The anticipated closing or relocation of a home or agency for any reason other than temporary closings for holidays and vacations;
2. A change of director or administrator of the home;
3. A change of type of children served; or
4. A change of services offered, including the opening of a new treatment home or supervised transitional living home serving fewer than six children.

(e) The home or agency shall notify the Division and the child's parents within 24 hours of any unauthorized absence of a child from a home.

(f) The home or agency shall comply with the Unusual Incident Reporting System.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In (a), substituted "Department's State Central Registry at 1-877-NJ-ABUSE (1-877-652-2873)" for "Office of Child Abuse Control" and inserted "of Youth and Family Services, Community Education Office, PO Box 717, Trenton, New Jersey 08625-0717,"; in introductory paragraphs of (b), (c) and (d) and in (c)2 and (c)4, substituted "Office of Licensing" for first occurrence of "Bureau"; in (b), substituted "Office" for second occurrence of "Bureau"; in (c)3, deleted "or agency-approved home," preceding "caused"; and in (d)1, substituted "home or agency" for "home, agency or agency-approved home".

Amended by R.2010 d.109, effective June 21, 2010.

See: 41 N.J.R. 4170(a), 42 N.J.R. 1200(b).

Added (f).

10:128-3.8 Records

(a) The home's or agency's records shall be open for inspection by authorized representatives of the Office of Licensing, the Division of Child Behavioral Health Services, the Department's Institutional Abuse Investigation Unit

(IAIU), the Department's contracting units and, provided that they may only secure information about children under the Department's supervision, Division case managers.

(b) The home or agency shall maintain on file the following administrative records until the expiration of its certificate of approval:

1. The following records shall be maintained in files located either at an agency's administrative office or at the home:

- i. A record of comprehensive general liability insurance, as specified in N.J.A.C. 10:128-3.9;
- ii. A record of performance of required monthly fire drills and/or evacuation drills, as specified in N.J.A.C. 10:128-4.5(c);
- iii. A record of training sessions for staff members on evacuation procedures, the use of fire extinguishers, the location of fire alarms, and emergency medical procedures, as specified in N.J.A.C. 10:128-5.4(a)3;
- iv. A copy of the home's or agency's vehicle insurance policy, as specified in N.J.A.C. 10:128-8.2; and
- v. Transportation records, if transportation is provided to children residing in the home, as specified in N.J.A.C. 10:128-8.4.

2. The following records shall be maintained in files located at the home:

- i. A current manual;
- ii. A statement of purpose, as specified in N.J.A.C. 10:128-3.1 and 9.1(b);
- iii. The Life/Safety and Program Inspection/Violation reports and Complaint Investigation Summary reports, if applicable, from the Office of Licensing, as well as letters of enforcement or other actions taken against the agency or home, if applicable, that cover the current certificate of approval period;
- iv. The document providing information to parents, as specified in N.J.A.C. 10:128-3.3(a);
- v. A record of each parent's signature attesting to the receipt of the information to parents document, as specified in N.J.A.C. 10:128-3.3(b)1;
- vi. Documentation of the use of extermination services, if applicable, as specified in N.J.A.C. 10:128-4.3(a)7;
- vii. Policies and procedures regarding behavior management, as specified in N.J.A.C. 10:128-6.13, 6.14 and 10.14;
- viii. A record of in-service training conducted for staff members, as specified in N.J.A.C. 10:128-5.4 and 10.3;

ix. A record of all incidents and accidents, recorded on incident and accident report forms, noting all details of the incident and accident and any actions taken by the staff members, as specified in N.J.A.C. 10:128-6.13, 7.3(b) and 9.3(a) and (b);

x. A copy of the comprehensive health plan, as specified in N.J.A.C. 10:128-7.1, 10.15 and 10.16;

xi. Copies of menus of food served to the children, including special diets, as specified in N.J.A.C. 10:128-6.11 and 10.24;

xii. Aggregate statistical information on children served, including the date of each admission, date of each discharge, and reason for each discharge, as specified in N.J.A.C. 10:128-5.2(a)10;

xiii. A record of signed parental consent for children's participation in fund-raising, publicity, photography, or audiovisual activities related to the home, as specified in N.J.A.C. 10:128-3.2(a)11;

xiv. A copy of the children's grievance procedures, as specified in N.J.A.C. 10:128-3.2(d);

xv. A record of signed parental consent for medical treatment for each child, as specified in N.J.A.C. 10:128-3.6(b);

xvi. A daily record log, in which an on-duty staff member shall comment on positive and negative significant activities and events, such as, aggressive behavior, damage to property, running away, a child threatening self-harm or refusing to meet his or her daily needs, educational achievements or problems demonstrated by the child and other personal achievements of the child that occur, along with the staff member's response to those events;

xvii. A daily log book, a separate log book or notation in the child's case record, in which all visits to the child shall be recorded;

xviii. A copy of the staff members' work schedules and time sheets;

xix. A medication log book, as specified in N.J.A.C. 10:128-7.4, 7.5 and 10.20;

xx. For group homes, a written daily schedule of planned recreational, leisure time and physical exercise activities, as specified in N.J.A.C. 10:128-6.8(b) and 10.11;

xxi. A record of pet vaccinations and the name and address of the licensed veterinarian providing care for the pets, as specified in N.J.A.C. 10:128-6.12;

xxii. A copy of the parenting education curriculum, as specified in N.J.A.C. 10:128-10.8;

xxiii. A copy of the plan for emergency evacuation procedures, as specified in N.J.A.C. 10:128-9.2(a);

xxiv. A copy of the plan for search and rescue procedures, as specified in N.J.A.C. 10:128-9.2(b);

xxv. Copies of biking permits, as specified in N.J.A.C. 10:128-9.4(a);

xxvi. Documentation that permission was obtained to enter a cave from the owner or public authority, as specified in N.J.A.C. 10:128-9.6(c);

xxvii. Documentation on the care of horses, as specified in N.J.A.C. 10:128-9.8(c);

xxviii. Documentation on the safety of ropes used in climbing, as specified in N.J.A.C. 10:128-9.9(d);

xxix. A copy of the plan for boating activities, as specified in N.J.A.C. 10:128-9.10;

xxx. Copies of all permits, certificates or licenses for camping, as specified in N.J.A.C. 10:128-9.15;

xxxi. A copy of the policy for treating snake, animal and insect bites and ingestion or contact with poisonous plants, as specified in N.J.A.C. 10:128-9.17(c);

xxxii. A copy of the plan and procedures that enable children to receive an emergency message, and send and receive mail, as specified in N.J.A.C. 10:128-9.20(c);

xxxiii. Documentation that children were permitted to make free telephone calls, as specified in N.J.A.C. 10:128-9.20(e);

xxxiv. A copy of the policy for visitation and communication for parents, as specified in N.J.A.C. 10:128-9.20(g); and

xxxv. A copy of the feed plan for horses, as specified in N.J.A.C. 10:128-9.8 and 9.16.

(c) The home or agency shall maintain on file the following staff records throughout a staff member's employment and for one year after the staff member has stopped working at the home.

1. The following records for the director and all staff members shall be maintained in files located either at an agency's administrative office or at the home:

i. Applications for employment, as specified in N.J.A.C. 10:128-5.1(b) and 9.18;

ii. References on the director and staff members, as specified in N.J.A.C. 10:128-5.1(b) and 9.18;

iii. A record of each staff member's signature attesting to his or her receipt of the policy statement on the disciplining of children by staff members, as specified in N.J.A.C. 10:128-3.3(b);

iv. A record of each staff member's signature attesting to his or her receipt of the information to parents document, as specified in N.J.A.C. 10:128-3.3(b);

v. Health information, as specified in N.J.A.C. 10:128-7.7;

vi. A copy of a home study, as specified in N.J.A.C. 10:128-5.1(b)4; and

vii. Documentation of completion of a Criminal History Record Information background check, as specified in N.J.A.C. 10:128-5.6, and a Child Abuse Record Information background check, as specified in N.J.A.C. 10:128-5.7.

2. The following staff records shall be maintained in files located at the home:

i. Current staff member attendance sheets;

ii. A full written disclosure of the director's and every staff member's background, previous work experience and criminal convictions, if any, as specified in N.J.A.C. 10:128-5.1(b) and 9.18;

iii. Documentation that every staff member received and reviewed a copy of the home's statement of purpose, grievance policy, children's bill of rights, fireplace policy and search and seizure policy, as specified in N.J.A.C. 10:128-3.1(b) and 3.3(b); and

iv. Documentation of training received by staff members, as specified in N.J.A.C. 10:128-5.4 and 10.3.

(d) The home shall maintain on file the following children's records during the child's placement at the home or agency for at least four years following the discharge of the child:

1. The home or agency shall ensure the confidentiality of the following records for each child, in accordance with New Jersey State law:

i. Identifying information, as specified in N.J.A.C. 10:128-3.6(b) and (c);

ii. A copy of each treatment plan developed for the child, for group homes, teaching family homes, alternative care homes or treatment homes, as specified in N.J.A.C. 10:128-6.1; a copy of the case management plan for supervised transitional living homes, as specified in N.J.A.C. 10:128-6.3; and a copy of the case management plan for homes that serve pregnant and parenting adolescents, as specified in N.J.A.C. 10:128-10.4;

iii. Education records, as specified in N.J.A.C. 10:128-6.7;

iv. Reports of incidents, including, but not limited to, acts of aggression, violent or destructive behavior, discovery of contraband, suicidal threats, discovery of a weapon, inappropriate sexual behavior, involvement with the police and documentation of efforts made to locate runaways, as specified in N.J.A.C. 10:128-6.13, 6.14, 6.15 and 6.16;

v. Reports of accidents, as specified in N.J.A.C. 10:128-7.3 and 9.3(a) and (b);

vi. Documentation of the opening of a child's mail by a home staff member, as specified in N.J.A.C. 10:128-6.6;

vii. Medical records, as specified in N.J.A.C. 10:128-7.2 and 9.17(a) and (b);

viii. A discharge summary, as specified in N.J.A.C. 10:128-6.2 and 10.5;

ix. An aftercare plan, as specified in N.J.A.C. 10:128-6.2 and 10.5;

x. An infant's feeding schedule, as specified in N.J.A.C. 10:128-10.24;

xi. Documentation that an adolescent mother received life skills development training, as specified in N.J.A.C. 10:128-10.25; and

xii. Documentation that a child received information on adventure activities, as specified in N.J.A.C. 10:128-9.1(d).

2. The home or agency shall ensure that all entries in the child's record indicate the entry date and the name and signature of the person making the entry.

Amended by R.1999 d.337, effective October 4, 1999.

See: 31 N.J.R. 1436(a), 31 N.J.R. 2886(a).

Rewrote (b)2xvi.

Amended by R.2005 d.374, effective November 7, 2005.

See: 37 N.J.R. 1942(a), 37 N.J.R. 4263(a).

In (c)vi, substituted "(b)4" for "(b)3"; added (c)vii.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In (a), substituted "Office of Licensing, the Division of Child Behavioral Health Services," for "Bureau" and "Department's" for "Division's" two times; and in (b)2iii, substituted "Office of Licensing" for "Bureau".

Amended by R.2010 d.109, effective June 21, 2010.

See: 41 N.J.R. 4170(a), 42 N.J.R. 1200(b).

In (a), substituted "Department's" for "Division's".

10:128-3.9 Comprehensive general liability insurance

A home or agency shall secure comprehensive general liability insurance coverage and shall maintain on file a copy of the insurance policy.

10:128-3.10 Quality assurance (QA) for psychiatric community homes for children

(a) Each psychiatric community home for children shall maintain an ongoing and systematic process to monitor and evaluate important aspects of care with participation by all levels of staff. This process shall be written and referred to as the QA plan.

1. The QA plan shall describe outcome indicators, evaluation criteria and procedures for monitoring problem correction.

2. The QA plan shall include the review of open and closed records to evaluate the quality and appropriateness of treatment and compliance with documentation requirements.

3. The QA plan shall describe the process, frequency and criteria for case selection.

4. The QA plan shall identify the persons responsible for QA activities and the administrative structure for QA oversight and implementation.

(b) Each QA plan shall include a risk management (RM) component, which shall address areas that are deemed to be high risk, high volume or problem prone. The RM component shall include, but is not limited to:

1. The monitoring of the homes or agency's policies and procedures regarding the use of medication and restrictive behavior management practices;

2. The monitoring of life/safety aspects of the program site;

3. An incident review and reporting procedure that will allow for the analysis of client and staff incidents to identify patterns and trends or opportunities to improve client care, staff safety and to reduce agency liability risks;

4. Development of an infection control policy and monitoring of the implementation of the policy; and

5. The review and process to address client complaints, grievances and suggestions.

(c) Each QA plan shall include a utilization review (UR) component, which shall review the appropriateness of admissions and continued stays in a program. The UR component shall include, but not be limited to:

1. Written criteria developed for admission and continued stays for each program service;

2. Written criteria developed for the processing of inappropriate admissions and continued stays. This shall include a description of the process to appropriately terminate or transfer clients meeting the criteria of inappropriate admission and continued stays;

3. Criteria developed to assess the length of stay, using professionally accepted clinical treatment norms and the treatment philosophy of the home or agency; and

4. Documenting the reasons in the client's record for continued service for a client who exceeds the identified length of stay.

(d) The QA plan shall be reviewed and evaluated for effectiveness on an annual basis.

New Rule, R.2010 d.109, effective June 21, 2010.

See: 41 N.J.R. 4170(a), 42 N.J.R. 1200(b).

**SUBCHAPTER 4. PHYSICAL FACILITY
REQUIREMENTS****10:128-4.1 Physical facility initial approval requirements for all homes located in New Jersey**

(a) An applicant seeking an initial certificate of approval, as specified in N.J.A.C. 10:128-2.1, to operate a home shall comply with all applicable provisions of the New Jersey Uniform Construction Code, as specified in N.J.A.C. 5:23 and hereinafter referred to as the NJUCC.

1. For newly constructed buildings, for existing buildings whose construction code use group classification would change from that which it had been, or for existing buildings that require major alteration or renovation, the home or agency shall submit to the Office of Licensing a copy of a Certificate of Occupancy (CO) issued by the municipality in which it is located, reflecting the home's compliance with provisions of the NJUCC, for one of the following use group classifications:

- i. R-2 (Residential) for buildings accommodating children 2½ years of age and older for more than 30 calendar days and having a total occupancy of more than five and fewer than 13 children; or
- ii. I-2 (Institutional) for buildings accommodating six or more children less than 2½ years of age.

2. For homes or agencies that are planning to construct a new building, the home or agency shall submit to the Office of Licensing:

- i. Preliminary architectural drawings for review and comment prior to beginning construction; and
- ii. If applicable, revised architectural or final drawings containing all required items listed in the preliminary plan review for final approval from the Office of Licensing before the home can open.

3. For buildings constructed after the adoption of the NJUCC (1977), whose construction code use group classification is already R-2 or I-2 and that have not had major alterations or renovations since receipt of the CO, the home or agency shall obtain the CO issued by the municipality in which it is located at the time the building was originally constructed or approved for use in the NJUCC's R-2 or I-2 use group classification. The home or agency shall submit a copy of the building's CO to the Office of Licensing.

4. For existing buildings, whose use prior to the adoption of the NJUCC (before 1977) was and continues to be for a home and that have not had major alterations or renovations, the home shall obtain a Certificate of Continued Occupancy (CCO) or a letter to this effect, issued by the municipality in which it is located, reflecting the building's compliance with provisions of the municipality's construction code requirements that were in effect at the time it was originally constructed or converted for

use as a home. The home or agency shall submit a copy of the building's CCO or letter reflecting the building's compliance to the Office of Licensing.

5. The home or agency shall obtain a new CO issued by the municipality in which it is located, reflecting the building's compliance with provisions of the applicable NJUCC use group classification, and submit a copy of the new CO to the Office of Licensing whenever it takes any of the following actions:

- i. Changes the building's use group classification to one other than the one prescribed on its original CO;
- ii. Makes a major alteration or renovation, as defined by the NJUCC, of the building or premises where the home is located;
- iii. Increases the floor area or the number of stories to the building or premises where the home is located; or
- iv. Relocates to another site.

6. Whenever a municipality grants a home a written variation from any of the requirements of the NJUCC, the Office of Licensing may accept such variations as meeting the applicable requirements of this manual.

(b) An applicant seeking an initial approval, as specified in N.J.A.C. 10:128-2.1, to operate a home shall comply with all applicable provisions of the New Jersey Uniform Fire Code, as specified in N.J.A.C. 5:70 and hereinafter referred to as the NJUFC. The home or agency shall obtain the building's fire safety inspection certificate issued by the municipality in which it is located, based on a fire inspection conducted within the preceding 12 months, reflecting the home's compliance with all applicable provisions of the NJUFC. The home or agency shall submit a copy of the building's fire safety inspection certificate to the Office of Licensing.

(c) An applicant seeking an initial approval, as specified in N.J.A.C. 10:128-2.1, to operate a home shall comply with all applicable provisions of the State Sanitary Code, as specified in N.J.A.C. 8:24. The home or agency shall obtain a certificate or statement of satisfactory health approval issued by the applicable municipal, county or State health agency, based on a health inspection conducted within the preceding 12 months, certifying that the home complies with applicable provisions of local, county and State health codes and poses no health hazard to the children served. The home or agency shall submit a copy of the certificate or statement of satisfactory health approval to the Office of Licensing.

(d) An applicant seeking the renewal of a certificate of approval to continue operating a home shall obtain and submit to the Office of Licensing, copies of:

1. A current fire safety inspection certificate for the building; and
2. A current certificate or statement of satisfactory health approval for the home.

Amended by R.2005 d.374, effective November 7, 2005.

See: 37 N.J.R. 1942(a), 37 N.J.R. 4263(a).

In (b), substituted "5:70" for "5:18, 18A and 18B".

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

Substituted "Office of Licensing" for "Bureau" throughout.

10:128-4.2 Physical facility initial approval requirements for all homes located outside of New Jersey

(a) A home located in a state other than New Jersey shall submit with each application documentation that the home meets the provisions of all applicable codes governing building, fire, safety and health requirements in the state, county and municipality in which the home is located.

(b) All homes located in a state other than New Jersey shall also comply with the physical facility and life-safety requirements specified in N.J.A.C. 10:128-4, with the exception of N.J.A.C. 10:128-4.4(c), (f)3, (g), (h), (i), and (l).

10:128-4.3 Maintenance and sanitation requirements for all homes

(a) The home shall maintain all indoor areas in a safe and sanitary manner by ensuring that:

1. The home is free of moisture resulting from water leaks or seepage;
2. All lally columns in areas used by the children have protective padding from the floor to a height of at least 72 inches;
3. Floors, walls, ceilings and other surfaces are kept clean and in good repair;
4. Stairways are free of hazards such as boxes, loose steps, torn carpeting or raised strips;
5. Carpeting is secured to the floor;
6. Garbage and food receptacles are:
 - i. Made of durable, leakproof and nonabsorbent materials;
 - ii. Covered in a secure manner;
 - iii. Emptied to the outdoor garbage receptacle when filled; and
 - iv. Lined and maintained in a sanitary manner;
7. The home is free of rodent or insect infestation. If there is evidence of rodent or insect infestation, immediate action shall be taken to remove such infestation. The home shall maintain on file a record documenting the use of extermination services in these incidences;
8. Toilets, wash basins, kitchen sinks, and other plumbing are maintained in good operating and sanitary condition;

9. All corrosive agents, insecticides, bleaches, detergents, polishes, any products under pressure in an aerosol can, and any toxic substance are stored in a locked cabinet or in an enclosure located in an area not accessible to children under six years of age;

10. Ventilation outlets are clean and free from obstructions, and filters are replaced when saturated;

11. Walls are painted or otherwise covered whenever there is evidence of:

- i. Excessive peeling or chipped paint; or
- ii. Heavily soiled conditions; and

12. All shelving is secured and not overloaded.

(b) The home shall maintain all outdoor areas in a safe and sanitary manner by ensuring that:

1. The building, land and outdoor play area are free from any hazards to the health, safety or welfare of the children;

2. The outdoor play area is graded or provided with drains to dispose of surface water;

3. The building structure is maintained to prevent:

- i. Water from entering;
- ii. Excessive drafts or heat loss; and
- iii. Infestation from rodents and insects;

4. The railings of balconies, landings, porches, or steps are maintained in safe condition;

5. Garbage receptacles are:

- i. Made of durable, leakproof and nonabsorbent materials; and
- ii. Covered in a secure manner, maintained in a sanitary manner and located in an outdoor area; and

6. Homes that provide outdoor space maintain in proper condition all fencing or other natural or man-made barriers or enclosures.

(c) The Office of Licensing shall also require the home or agency to take whatever steps are necessary to correct any conditions in the home that may endanger in any way the health, safety and well-being of the children in placement.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In (c), substituted "Office of Licensing" for "Bureau" and "in placement" for "served", and inserted "or agency" following the first occurrence of "home".

10:128-4.4 Additional maintenance and sanitation requirements for all homes located in New Jersey

(a) The home shall meet the following lighting requirements:

1. All fluorescent tubes and incandescent light bulbs shall have protective covers or shields.

2. During activities in the home, at least 20 foot-candles of natural or artificial light shall be provided in all rooms used by the children. This illumination shall be measured three feet above the floor at the farthest point from the light source.

3. Parking areas, pedestrian walkways, or other exterior portions of the premises subject to use by home occupants at night shall be illuminated to provide safe entrance to and egress from the home.

(b) The home shall meet the following heating requirements:

1. A minimum temperature of 65 degrees Fahrenheit shall be maintained in all rooms used by the children.

2. Working fireplaces, steam and hot water pipes, radiators and electric space heaters shall be protected by screens, guards, insulation or any other suitable, non-combustible protective device.

3. The home shall not use portable liquid fuel-burning or wood-burning heating appliances.

(c) The home shall ensure that fireplaces meet the following requirements:

1. The use of a fireplace for the children served by the home shall not pose a serious risk of fire safety to occupants of the home, as determined by the local fire official;

2. The fireplace shall be approved by the local government construction official and fire official, in accordance with applicable provisions of the NJUCC and the NJUFC, respectively;

3. The home shall obtain a copy of these certificates or statements of approval and submit them to the Office of Licensing;

4. The home shall develop guidelines, in conjunction with the local fire official, that ensure proper use of the fireplace, safety procedures, and an action plan to be followed in the event of an emergency;

5. The guidelines noted in (c)4 above shall include, but not be limited to, staff member supervision, storage of wood, storage and safeguarding of matches, instruction in the use of fireplace implements, use of the screen, posting of emergency phone numbers for police and fire departments and hospitals, posting of emergency procedures and exits, and methods and safeguards for extinguishing the fire; and

6. The guidelines noted in (c)4 above shall be maintained on file by the home and reviewed by all staff members and children in the home.

(d) The home shall meet the following ventilation requirements:

1. Crawl spaces, attic spaces, and all doors and windows used for natural ventilation shall have insect screening;
2. All floor or window fans that are accessible to the children shall have a grille, screen, mesh or other protective covering designed to prevent a child from coming into contact with the blades of the fan; and
3. Ventilation outlets shall be cleaned and free from obstructions and filters shall be replaced when saturated.

(e) The home shall ensure that mirrors, dispensers, and other equipment are fastened securely.

(f) Homes that serve children with special needs shall ensure that:

1. For non-ambulatory children, the toilet facilities are located on the same floor where the children's bedrooms and activities are located;
2. The width and height of toilets and sinks accommodate the children served; and
3. Grab bars are provided in toilet and bathroom areas, as specified in N.J.A.C. 5:23-7 of the Barrier-free Subcode of the NJUCC.

(g) The home shall not use lead paint on and shall remove lead paint from any interior or exterior surfaces of a building used as a home, or on any furniture, toys, or other equipment used therein, in accordance with the provisions of the State Lead Paint Law, pursuant to N.J.S.A. 24:14A-1 et seq., and with the provisions of the State Sanitary Code, as specified in N.J.A.C. 8:51-7. When lead paint is found in areas of a home not specified in N.J.A.C. 8:51-7, the Office of Licensing shall determine whether the lead paint is hazardous to the health, safety and well-being of the children served and, if considered to be hazardous, the home shall remove the lead paint hazard.

(h) The home shall not use spray coatings containing asbestos on any interior or exterior surfaces of the home or on any equipment used therein, in accordance with rules of the State Department of Environmental Protection, as specified in N.J.A.C. 7:27-17.2 and with applicable provisions of the Asbestos Hazard Abatement Subcode of the NJUCC, as specified in N.J.A.C. 5:23-8. If the New Jersey Department of Health and Senior Services determines the presence of sprayed-on asbestos-containing materials, and concludes that corrective action must be taken to minimize exposure potential, the home shall follow the recommendation of that Department for enclosure, removal or other appropriate action to remove the threat or risk of asbestos contamination.

(i) The home shall ensure that swimming pools and natural bathing places used by the children:

1. Comply with applicable provisions of the Public Recreational Bathing Rules, as specified in N.J.A.C. 8:26, and with applicable provisions of the Building Subcode and Barrier-free Subcode of the NJUCC, as specified in N.J.A.C. 5:23; and

2. Provide for supervision of the children, in accordance with applicable provisions of the New Jersey Youth Camp Safety Act rules, as specified in N.J.A.C. 8:25.

(j) The home shall ensure that materials and furniture for indoor and outdoor use are of sturdy and safe construction, easy to clean and free of hazards that may be injurious to children.

(k) The home shall ensure that toilet facilities meet the following requirements:

1. At least one toilet, wash basin and bath tub or shower is provided for every six children in the home. These facilities shall not be located more than one floor from any bedroom; and
2. A supply of hot tap water at a minimum temperature of not less than 120 degrees Fahrenheit and at a maximum temperature of not more than 140 degrees Fahrenheit at all times in accordance with anticipated needs and cold running water is provided.

(l) A home utilizing a kitchen facility or food preparation area shall ensure that the cooking equipment and kitchen facility are kept clean and sanitary and are operated in compliance with applicable provisions of Chapter 12 of the State Sanitary Code, as specified in N.J.A.C. 8:24.

(m) The home shall obtain prior approval from the Office of Licensing for all space used by the children.

(n) The home shall not care for more children than the number specified in the certificate of approval.

(o) The home shall meet the following space requirements to ensure the safety, treatment, recreational, dining and sleeping needs of the children, including:

1. Adequate space for the implementation of treatment services, including individual, group and family counseling sessions and treatment team meetings;
2. A recreation room or area that can accommodate indoor individual or group activities;
3. A dining area large enough to accommodate tables and chairs for all the children; and
4. Rooms for sleeping:
 - i. Any bedroom used by a child shall have a minimum ceiling height of seven feet and six inches.
 - ii. Any bedroom containing a single bed occupied by one child shall provide a minimum of 70 square feet

of floor space, including space that is occupied by furniture.

iii. Any bedroom containing two or more single beds and occupied by more than one child shall provide a minimum of 70 square feet of floor space for the first child and 50 square feet of floor space for each additional child, including space that is occupied by furniture.

iv. Any bedroom containing bunk beds or any combination of single beds and bunk beds shall provide 50 square feet of floor space for each child, including space that is occupied by furniture.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In (c)3, (g) and (m), substituted "Office of Licensing" for "Bureau"; and in (h), inserted "and Senior Services" and substituted "that Department" for "the State Health Department".

10:128-4.5 Emergency evacuation instructions, medical emergencies, fire prevention, first aid and equipment

(a) The home shall prepare and post on each floor written emergency evacuation instructions that include:

1. A diagram showing how the home is to be evacuated in the event of an emergency; and
2. The location of fire alarms and fire extinguishers.

(b) The home shall maintain the following information near a staff telephone or other accessible area for use in the event of medical emergency;

1. The name, address and telephone number of the physician retained by the home or of the health facility to be used in emergencies;
2. The location of written authorizations from parents for emergency medical care for each child;
3. The procedure for obtaining emergency transportation;
4. The procedure for obtaining substitute or on-call supervision, if needed;
5. The telephone numbers of the local police, fire department, ambulance service and poison control; and
6. The location of the first aid kit and any additional first aid supplies.

(c) The home shall prepare written fire prevention instructions, which delineate that:

1. The home shall conduct fire drills at least once a month, which shall include all staff members and children, and shall inform all staff members and children of the procedures for leaving the building in an emergency situation;

2. The home shall maintain on file a record of each fire drill, which shall include:

- i. The date and time of day of the drill;
- ii. The weather condition at the time of evacuation;
- iii. The number of participating children and staff members;
- iv. The total amount of time taken to evacuate the home; and
- v. The signature of the staff members conducting the drill;

3. All fire extinguishers shall be serviced and tagged at least once a year and recharged, if necessary; and

4. The home shall ensure that all staff members are trained in the use and operation of fire extinguishers.

(d) The following equipment shall be placed in a location that is convenient and accessible to staff members:

1. A standard first aid kit, which is fully restocked within 24 hours of use; and
2. The American Red Cross First Aid Manual or its equivalent.

10:128-4.6 Prohibition on the use of tobacco products

(a) The home shall prohibit the smoking of tobacco products or the use of smokeless tobacco by children.

(b) The home shall ensure that staff members comply with the provisions of N.J.S.A. 2A:170-51.4, which prohibits any person from directly or indirectly selling, giving or furnishing to a minor under 19 years of age any cigarettes made of tobacco or any matter or substance that can be smoked, or any cigarette paper or tobacco in any form, including smokeless tobacco.

(c) The home shall maintain a smoke free environment in all buildings on the group home premises and in all vehicles used to transport children.

(d) The home may permit staff members, parents and adult visitors to smoke in a designated area outside the building(s) on the premises of the group home or in vehicles that are not used to transport children.

Amended by R.1996 d.118, effective March 4, 1996.

See: 27 N.J.R. 4266(a), 28 N.J.R. 1379(c).

Rewrote the section to prohibit use of tobacco products.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In (b), updated the N.J.S.A. reference and substituted "19" for "18".

SUBCHAPTER 5. STAFF REQUIREMENTS

10:128-5.1 General requirements for director and all staff members

(a) The director and every staff member shall:

1. Be of good character and reputation;
2. Be in sufficient physical, mental and emotional health to perform his or her job duties satisfactorily; and
3. Possess skills, attributes and characteristics conducive to and suitable for operating a home or dealing with children, as applicable.

(b) Prior to hiring or utilizing a director or a staff member who will be working at the home or agency, the home or agency shall secure and maintain on file:

1. A signed application for employment from each individual, indicating the applicant's name, address and telephone number; education and work experience; and disclosure of the presence or absence of criminal convictions;

2. Two written or two verbal references on each individual. These references shall be secured from former employers or other persons who have knowledge of the individual's work experience or education and who can attest to the individual's suitability to work with children. The verbal references shall be documented in writing by the home or agency;

3. Documentation from the Department showing compliance with a Criminal History Record Information background check, as specified in N.J.A.C. 10:128-5.6, and a Child Abuse Record Information background check, as specified in N.J.A.C. 10:128-5.7, for the director and each staff member, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent, and household member at least 18 years old in a treatment home, teaching family home, alternative care home or supervised transitional living home; and

4. A copy of a home study for each treatment home, teaching family home serving five or fewer children, supervised transitional living home serving five or fewer children and alternative care home utilized by the agency for children supervised by the Department. The home study shall include:

- i. A description of the rooms in the home;
- ii. A description of the child's bedroom;
- iii. A description of the neighborhood;
- iv. The names of the persons residing in the home, including biological children, other children placed by the Department, boarders and frequent overnight guests;

- v. References as specified in (b)2 above, on all persons identified in (b)3iv above;

- vi. A written health statement on all persons identified in (b)3iv above; and

- vii. A statement from the agency that verifies that the supply of hot tap water has been tested and does not exceed 140 degrees Fahrenheit.

(c) Failure by any agency, director or other staff member to comply with the requirements as specified in (a) and (b) above, and/or any evidence demonstrating unfitness or unsuitability to fulfill the responsibilities and duties of his or her position or to serve or deal with children in an appropriate manner, shall constitute grounds for one or more of the following actions:

1. Removal of the director or staff member from his or her position;
2. Reassignment to other duties that do not involve contact with children; or
3. Termination from the home.

(d) The home shall disclose to the Office of Licensing, in writing, information about and circumstances surrounding any previous denial, suspension, revocation or refusal to renew a certificate of approval or a license to operate a home either by the Office or by the licensing agency of another state. Evidence of a previous denial, suspension, revocation or refusal to renew a certificate of approval or license, shall not in and of itself result in an automatic disqualification of the prospective agency or home to secure a certificate of approval for another or the same home, but shall constitute grounds for the Office to investigate the circumstances that led to the original negative action and make a determination as to whether to reject or process the new application for a certificate of approval.

(e) Requirements to prevent child abuse or neglect are as follows:

1. The director or any staff member shall verbally notify the Department's State Central Registry at 1-877-NJ-ABUSE (1-877-652-2873) immediately whenever there is reasonable cause to believe that a child has been subjected to abuse or neglect by a staff member, or any other person, pursuant to the Child Abuse and Neglect Law (see N.J.S.A. 9:6-8.9, 8.10, 8.13 and 8.14). This provision shall also apply to homes located outside of New Jersey, notwithstanding the child abuse and neglect provisions of the State in which the home is located.

2. The home shall report any suspected abuse or neglect of the child by his or her parents or other family members to the Division case manager assigned to the family.

3. In addition to the reporting requirements specified in 1 above, the home shall notify the Division case manager and parents of any unusual incidents that occurred at the home and that might indicate possible abuse or neglect involving the child. Such notification shall be made on the same day on which the incident occurred. Such incidents may include, but are not limited to: acts of aggression, violent or destructive behavior, suicidal threats or behavior, homicidal threats, inappropriate sexual behavior, running away, withdrawal or passivity, drug or alcohol abuse, or significant changes in the child's behavior or habits. The home shall maintain on file a record of such incidents and documentation that parents and Division case managers have been informed of them.

4. The Department, during the course of investigating an allegation of child abuse and neglect, may determine that immediate, corrective action is necessary to protect the children whenever:

- i. The director or staff member has been found by the Department's Institutional Abuse Investigation Unit (IAIU) to pose a risk of harm to children; or
- ii. The director or staff member has committed an act of child abuse or neglect, as substantiated by the IAIU; or
- iii. The director or staff member has been convicted of such acts.

5. Whenever the IAIU makes such a determination, the agency or director shall carry out the Department's recommendation for immediate remedial action and long-term corrective action. Such remedial action may include, but not be limited to:

- i. Removal or suspension of the affected director or staff members from the home or reassignment to other duties that do not involve contact with the children; or
- ii. When the director or staff member resides at the home, removal of the affected employee from the premises.

6. Such suspension, removal or reassignment, as specified in (e)5 above, shall remain in effect until the results of the Department's investigation have been determined, and a final decision in the matter has been rendered by the Office of Licensing.

7. If an allegation of child abuse or neglect is substantiated against an individual working or residing at the home or agency, the home or agency shall immediately terminate the individual's employment at the home or agency. If the individual is a director, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent, or household member, the Department shall also deny, suspend, revoke or refuse to renew the certificate of approval, as applicable.

i. The home or agency may appeal the denial, suspension, revocation or refusal to renew to the Department, as specified in N.J.A.C. 10:128-2.4.

ii. The treatment home parent, teaching family home parent, alternative care home parent or supervised transitional living home parent may choose to remove the household member against whom child abuse or neglect is substantiated from the home before the action against the certificate takes effect.

(f) The home or agency shall utilize medical, dental, and psychological personnel serving children on either a staff or community provider basis who shall:

- 1. Be responsible for ensuring that the needs of the children for medical, dental, and psychological services are met; and
- 2. Be licensed to practice in the state where the staff member or community provider is located, if required by the laws of that state.

Amended by R.2005 d.374, effective November 7, 2005.

See: 37 N.J.R. 1942(a), 37 N.J.R. 4263(a).

In (b), added "or agency" to the introductory paragraph, added 3, and recodified former 3 as 4; deleted former (d) and (e); recodified former (f) as (d); recodified former (g) as (e) and rewrote 6 and 7; recodified former (h) as (f).

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

Substituted "Department" for "Division" throughout; in (d), substituted "Office of Licensing" for first occurrence of "Bureau" and "Office" for second and third occurrences; in (e)1, substituted "Department's State Central Registry at 1-877-NJ-ABUSE (1-877-652-2873)" for "Division's Office of Child Abuse Control or District Office"; in (e)4i, (e)5 and (e)6, substituted "Department's" for "Division's"; in (e)6, substituted "Office of Licensing" for "Bureau"; and in (e)7i, inserted a period at the end of the sentence.

10:128-5.2 Staff qualifications

(a) Group homes, supervised transitional living homes and treatment homes shall have a full-time agency administrator or home director, social service workers and house parents or child care staff members, who shall meet the requirements in (d) through (f) below.

(b) Teaching family home programs shall have a full-time program administrator, teaching family consultants and teaching family parents, who shall meet the requirements in (h) through (k) below.

(c) Psychiatric community homes for children shall have the following staff persons:

- 1. A full-time program director who shall meet the qualifications specified in (d)2ii below;
- 2. A full-time clinical social worker-therapist who shall have, at minimum:
 - i. A master's degree in social work, psychology, counseling, family therapy or other related field; and

ii. One year experience in the provision of child mental health services;

3. A nurse-health educator who possesses a current New Jersey registered nursing license and one year direct care nursing experience with children. The responsibilities of the nurse-health educator shall include, but need not be limited to, the following:

i. Assess the physical condition of the children in the program under the direction of the medical director or psychiatrist and integrate findings into the child's treatment plan;

ii. Provide education and support to direct care staff on the administering of medications and possible side effects, under the direction of the medical director or other physician;

iii. Implement the quality assurance program;

iv. Provide injections of medication, as needed and directed by the medical director or other physician; and

v. Conduct individual and group guidance for clients and staff on health-related issues;

4. A psychiatrist who shall possess a valid New Jersey license to practice medicine and five years of clinical practice in psychiatry. The responsibilities of the psychiatrist shall include, but need not be limited to, the following:

i. Serving as the medical director, as assigned;

ii. Supervising the nurse-health educator;

iii. Developing and monitoring the implementation of the agency's medical policies and procedures;

iv. Providing related in-service training to staff;

v. Providing direct client services, such as diagnosis, evaluation, medication management, crisis intervention and therapy, when appropriate. However, the child's treatment may be under the supervision of an Advanced Practice Nurse (APN) as specified in N.J.S.A. 45:11-45 et seq., certified in the category of psychiatric/mental health and as supported by a collaborative agreement with the facility psychiatrist and joint protocol document as specified in N.J.A.C. 13:37-6.3; and

vi. Maintaining medical and legal responsibility for the overall treatment provided to the residence's clients; and

5. Child care staff who shall meet the qualifications specified in (f) below.

(d) The full-time agency administrator or home director shall:

1. Be at least 21 years of age;

2. Have one of the following qualifications:

i. A bachelor's degree in social work, psychology or a related field from an accredited college or university and four years of professional experience in the human services field, two of which shall have been in a supervisory or administrative position;

ii. A master's degree from an accredited graduate school in social work, psychology, or a related field and three years of professional experience in the human services field;

iii. For publicly operated homes, meet the requirements of the State Department of Personnel for the position, if applicable;

iv. Meet the requirements for a licensed clinical social worker or a licensed social worker as specified in N.J.A.C. 13:44G-4.1 and 4.2 and have three years of professional experience in the human services field; or

v. Meet the requirements for a certified social worker as specified in N.J.A.C. 13:44G-4.3, have a bachelor's degree in social work, psychology or related field from an accredited college or university and have three years of professional experience in the human services field, one of which shall have been in a supervisory or administrative position.

3. Be responsible for implementing the overall planning, operation, and management of the home, including the home's recreational and food programs;

4. Designate staff members to be in charge at all times during his or her absence;

5. Be on call to assist the staff in admissions, emergencies, and personnel or other responsibilities;

6. Be responsible for maintaining aggregate statistical information on children served, including the date of each admission, date of each discharge, and reason for each discharge; and

7. If qualified under (d)2i, ii or v above, not supervise a licensed clinical social worker, licensed social worker or certified social worker.

(e) A social worker or staff member who provides social services shall:

1. Be at least 21 years of age;

2. Provide at least two hours of service per week to each child, including, but not limited to, casework services, intake, treatment planning, family contacts, group work services, and maintenance of each child's record; and

3. Have one of the following qualifications:

i. Meet the requirements for a licensed clinical social worker, licensed social worker or certified social worker as specified in N.J.A.C. 13:44G-4.1 and 4.2 and have a minimum of one year professional experience in the human services field;

ii. A bachelor's degree in social work, psychology or a related field from an accredited college or university and one year of professional experience in the human services field, and meet one of the exemptions from social work certification or licensure as specified in N.J.S.A. 45:15BB-5. Staff members who do not meet the qualifications in (e)3i above and provide services as specified in (e)2 above, shall:

- (1) Only provide social work services in the course of employment with the home;
- (2) Not provide psychotherapeutic counseling to residents;
- (3) Not advertise or represent themselves as a licensed clinical social worker, licensed social worker or certified social worker; and
- (4) Not use any title or name, the use of which is restricted by N.J.S.A. 45:15BB-4 of the Social Worker's Licensing Act; or

iii. A master's degree from an accredited graduate school in social work, psychology or a related field, and meet one of the exemptions from social work certification or licensure as specified in N.J.S.A. 45:15BB-5. Staff members who do not meet the qualifications in (e)3i above and provide services as specified in (e)2 above, shall:

- (1) Only provide psychotherapeutic counseling under the supervision of a licensed clinical social worker or other State-licensed mental health professional;
- (2) Not advertise or represent themselves as a licensed clinical social worker, licensed social worker or certified social worker; and
- (3) Not use any title or name, the use of which is restricted by N.J.S.A. 45:15BB-4 of the Social Worker's Licensing Act; or

iv. Meet the requirements of the State Department of Personnel for the position, if applicable.

(f) The house parents or child care staff members shall:

1. Be at least 18 years of age;
2. Provide daily care and supervision of the children;
3. Inform the social service staff members or director of any incidents that may impact on the child's treatment planning, as specified in N.J.A.C. 10:128-6.1, 6.2 and 6.3; and
4. Have one of the following qualifications:
 - i. A high school or high school equivalency diploma and one year of experience working with children in a group setting;

ii. An associate's or bachelor's degree from an accredited college or university in a field that is unrelated to social work or psychology and six months experience working with children in a group setting;

iii. An associate's or bachelor's degree from an accredited college or university in social work, psychology or a related field; or

iv. Meet the requirements of the State Department of Personnel for the position, if applicable.

(g) Group homes, psychiatric community homes for children and supervised transitional living homes may hire persons who do not meet the qualifications specified in (f)4 above, but who offer a background or life experience that demonstrate characteristics, skills and attributes that would enable them to work with children in a positive manner. The home or agency shall develop and maintain on file a policy that delineates the criteria for hiring staff members who do not meet the qualifications specified in (f)4 above. Such criteria shall include, but not be limited to, the following:

1. The person shall have life experiences that deal with raising a child, providing foster care, participating in volunteer activities with a child or adopting a child;

2. The person shall exhibit characteristics, skills and attributes that would enable him or her to work effectively and sensitively with emotionally disturbed or handicapped children in a group setting; and

3. The person, after he or she is hired, shall work together with an experienced staff member for an initial probationary period of at least six months unless terminated for cause prior to completing the six-month probationary period. After this initial six month period has ended, the home or agency shall review the person's work performance, document his or her ability to continue work without being supervised by an experienced staff member and may either:

i. Appoint the probationary staff member to fill the position as a child care staff member;

ii. Extend the initial six-month period to further evaluate the performance of the probationary staff member and continue to have the probationary staff member supervised by an experienced staff member; or

iii. Terminate the probationary staff member after the initial six-month period or any extension of the initial six-month period for failing to perform the job duties and responsibilities of the position.

(h) The teaching family home program administrator shall:

1. Meet the qualifications specified in (d)1 and 2 above;

2. Provide the Office of Licensing with current listings of teaching family consultants and the homes to which they are assigned;

3. Ensure that the teaching family homes comply with all applicable provisions of this manual;

4. Designate a staff member to be in charge at all times during his or her absence;

5. Be on call to assist the teaching family consultants in admissions, emergencies and personnel or other problems;

6. Be responsible for ensuring that all teaching family consultants receive an annual performance evaluation; and

7. Assist in the recruitment and training of teaching family parents.

(i) The teaching family consultants shall:

1. Be at least 21 years of age;

2. Meet the requirements of the State Department of Personnel for the position; and

3. Be responsible for ensuring that the teaching family parents perform the duties specified in (j) below.

(j) The teaching family parents and relief staff shall:

1. Be at least 18 years of age;

2. Implement the overall planning, operation and management of the home;

3. Maintain all staff members' work schedules, time sheets, and/or payment vouchers for relief staff;

4. Maintain a daily log book, separate log book or record in the child's case record of all visits to children;

5. Complete entries in the daily log book that reflect the activities and events of each day;

6. Maintain aggregate statistical information on children served, including the date of each admission, date of each discharge, and reason for each discharge; and

7. Meet all the requirements specified in (f) above.

(k) Teaching family home staff members shall meet staff training and certification requirements of the National Teaching Family Association.

Amended by R.1996 d.118, effective March 4, 1996.

See: 27 N.J.R. 4266(a), 28 N.J.R. 1379(c).

Amended by R.1999 d.337, effective October 4, 1999.

See: 31 N.J.R. 1436(a), 31 N.J.R. 2886(a).

Rewrote (c)9.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In (d)3ii and (d)3iii, substituted "and meet one of the exemptions from social work certification or licensure as specified in N.J.S.A. 45:15BB-5. Staff members" for "except that any person", "do" for "does" and "provide" for "provides"; in (d)3ii(3) and (d)3iii(2), substituted "and" for "or" at the end; and in (g)2, substituted "Office of Licensing" for "Bureau".

Amended by R.2010 d.109, effective June 21, 2010.

See: 41 N.J.R. 4170(a), 42 N.J.R. 1200(b).

In (a), substituted "(d)" for "(c)" and "(f)" for "(e)"; in (b), substituted "(h)" for "(g)" and "(k)" for "(j)"; added new (c); recodified former (c) through (j) as (d) through (k); in (d)7, substituted "(d)2i" for "(c)2i" and deleted a comma following "ii"; in the introductory paragraph of (e)3ii,

substituted "(e)3i" for "(d)3i" and "(e)2" for "(d)2"; in the introductory paragraph of (e)3iii, substituted "(e)2" for "(d)2"; in the introductory paragraph of (g), inserted "psychiatric community homes for children" and substituted "(f)4" for "(e)4" twice; in (h)1, substituted "(d)1" for "(c)1"; in (i)3, substituted "(j)" for "(i)"; and in (j)7, substituted "(f)" for "(e)".

10:128-5.3 Staff-to-child ratios

(a) Group homes and supervised transitional living homes, except psychiatric community homes for children as specified in (c) below, shall meet the following staff-to-child ratios:

1. The home shall have at least one staff member present in the home or reachable by telephone when the home is in operation but the children are not in the home on a particular day.

2. The home shall have at least one staff member for every six or fewer children when the children are awake and present in the home and when the children are participating in an activity organized by the home.

3. The home shall have at least one staff member on duty when there are 12 or fewer children in the home and the children are asleep.

i. In a single-sex home, the staff member may be asleep.

ii. In a coed home, the staff member shall be awake.

iii. An additional staff member shall be available to provide emergency in-person coverage within 30 minutes.

(b) Teaching family homes, supervised transitional living homes serving five or fewer children and treatment homes shall have:

1. One staff member on duty whenever a child is scheduled to be present in the home;

2. One staff member as identified in (b)1 above who is accessible by telephone or beeper at all times when the home is in operation and the children are not present; and

3. One staff member who can provide emergency in-person coverage within 30 minutes.

(c) Psychiatric community homes for children shall meet the following staff-to-child ratios:

1. The home shall have at least one staff member present in the home or immediately reachable by telephone when the home is in operation but children are not present on a particular day;

2. The home shall have at least one staff member present for every three or fewer children when the children are awake and present in the residence; and

3. The home shall have at least two staff members on duty during normal sleeping hours, one of whom shall be awake. An additional staff member shall be available to provide emergency in-person coverage within 30 minutes.

(d) As an exception to (b) above, teaching family homes, supervised transitional living homes and treatment homes may permit a child to remain in the home when the home is in operation without a staff member present only when the following conditions have been met:

1. The child is at least 16 years of age;
2. The child does not have the responsibility to supervise other children in the home or is not supervised by other children in the home;
3. The treatment team, as specified at N.J.A.C. 10:128-6.1(b), documents in the child's treatment plan that the child has acquired the necessary skills that would enable the child to be in the home without a staff member present, including:
 - i. The ability to contact the police, ambulance or fire department in the event of an emergency;
 - ii. The ability to safely self-evacuate the home if there is a fire, gas leak or other potentially dangerous situation;
 - iii. The knowledge that strangers and visitors are not permitted in the home without the prior approval of the staff member; and
 - iv. If an adolescent mother with an infant, the ability to provide care and supervision of her child;
4. The treatment team, as specified at N.J.A.C. 10:128-6.1(b), documents in the child's treatment plan that the child has achieved treatment goals that would enable the child to be in the home without a staff member present. Such treatment goals may include, but are not limited to:
 - i. Regular attendance in school, vocational program or work;
 - ii. Consistent participation in counseling, based on the child's treatment plan, if applicable; and
 - iii. Demonstration by the child that he or she has not been involved in incidents of aggressive/assaultive behavior, damage or destruction of property, inappropriate sexual behavior or other behavioral or emotional episodes that would indicate that the child could be a potential risk to self or others;
5. The child does not require medication and/or psychotropic medication to be administered during the time that he or she is in the home unsupervised; and
6. The staff member does not permit the child to remain in the home unsupervised:
 - i. Because of his or her employment commitments;
 - ii. For overnight stays as a part of a vacation or outing; or

iii. For periods of time that exceed four consecutive hours; and

7. A staff member is accessible by telephone or beeper at all times and can provide in-person coverage within 30 minutes.

Amended by R.1999 d.337, effective October 4, 1999.

See: 31 N.J.R. 1436(a), 31 N.J.R. 2886(a).

In (a)2, substituted "six" for "12", in the introductory text of (b), substituted "five" for "six", and added (c).

Amended by R.2010 d.109, effective June 21, 2010.

See: 41 N.J.R. 4170(a), 42 N.J.R. 1200(b).

Section was "Staff to child ratios". In the introductory paragraph of (a), inserted ", except psychiatric community homes for children as specified in (c) below," and substituted "staff-to-child" for "staff to child"; added new (c); and recodified former (c) as (d).

10:128-5.4 Staff training and development

(a) The home shall develop a training plan and the director shall ensure that all staff members, upon employment, are trained in:

1. The home's statement of purpose, as specified in N.J.A.C. 10:128-3.1;
2. The home's behavior management policy and search and seizure policy, if any, as specified in N.J.A.C. 10:128-6.14 and 6.15;
3. Emergency procedures, as specified in N.J.A.C. 10:128-4.5(a), (b) and (c);
4. Protocols for medication, as specified in N.J.A.C. 10:128-7.4 and 7.5;
5. Infection control procedures, as specified in N.J.A.C. 10:128-7.8;
6. The home's techniques for safe physical restraint, if applicable, as specified in N.J.A.C. 10:128-6.13(e)6; and
7. Cultural sensitivity and diversity in psychiatric community homes for children.

(b) The home shall ensure that every new staff member is accompanied on his or her duties by an experienced staff member as part of an orientation, until the new staff member is familiar with daily routines and operations of the home.

(c) The home shall document in each staff member's record that all social service and child care staff members, including full and part-time staff members, receive a minimum of 12 hours of training each year in the following areas:

1. The principles of behavior management;
2. Alcohol and substance abuse;
3. Human sexuality and AIDS; and
4. Suicide prevention.

(d) In addition to (c) above, community psychiatric homes shall document in each staff member's records, that all social

service and child care staff members, including full- and part-time staff, receive training in the following areas:

1. Crisis intervention and clinical treatment of behavioral disorders for children; and
2. Medication, infection control, cardio-pulmonary resuscitation and first aid for children.

(e) The home's training plan may include in-depth discussions at staff meetings or attendance at workshops or conferences.

Amended by R.2010 d.109, effective June 21, 2010.

See: 41 N.J.R. 4170(a), 42 N.J.R. 1200(b).

In (a)4, substituted "7.5" for "5"; in (a)5, deleted "and" from the end; in (a)6, substituted "; and" for a period at the end; added (a)7 and new (d); and recodified former (d) as (e).

10:128-5.5 Volunteers and student interns

(a) The home may use volunteers or student interns to support the activities of regular paid staff members, but shall not use volunteers or student interns to substitute for paid staff members.

(b) The home shall ensure that volunteers and student interns are briefed fully on any special needs or problems they might encounter while working with the children.

(c) The home shall ensure that volunteers and student interns who have contact with children or parents receive an orientation to the home's program and are supervised by paid staff members. Volunteers and student interns shall receive authorization from the home prior to accompanying children off-grounds for trips, medical appointments and visits.

(d) The home or agency shall require references, as specified in N.J.A.C. 10:128-5.1(b)2, for volunteers and student interns who provide activities or transportation to a child by themselves.

(e) The home or agency shall secure and maintain on file documentation from the Department showing compliance with a Criminal History Record Information background check and a Child Abuse Record Information background check, as specified in N.J.A.C. 10:128-5.1(b)3, for each volunteer and student intern.

Amended by R.2005 d.374, effective November 7, 2005.

See: 37 N.J.R. 1942(a), 37 N.J.R. 4263(a).

In (d), added "or agency"; added (e).

10:128-5.6 Criminal History Record Information background checks

(a) As a condition of securing and maintaining a certificate, the home or agency shall ensure that a State and Federal Criminal History Record Information (CHRI) fingerprint background check, in keeping with P.L. 2003, c.186, is completed for the director and each staff member, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent, and

household member at least 18 years old in a treatment home, teaching family home, alternative care home or supervised transitional living home.

(b) If the director, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent, or household member refuses to consent to or cooperate in a CHRI background check, the Department shall deny, suspend, revoke or refuse to renew the certificate, as applicable.

1. The home or agency may appeal the denial, suspension, revocation or refusal to renew, as specified in N.J.A.C. 10:128-2.4.

2. The treatment home parent, teaching family home parent, alternative care home parent, or supervised transitional living home parent may choose to remove the household member so refusing from the home before the action against the certificate takes effect.

(c) If a staff member refuses to consent to or cooperate in a CHRI background check, the home or agency shall immediately terminate the staff member's employment at the home or agency.

(d) If any person identified in (a) above has a record of criminal conviction, the Department of Children and Families shall review the record with respect to the type and date of the criminal offense and make a determination as to the suitability of the person to receive a certificate or to administer, work at or reside in the home or agency.

(e) A person shall be disqualified from receiving a certificate or administering, working at or residing in a home or agency if that person ever committed a crime which resulted in a conviction for:

1. A crime against a child, including endangering the welfare of a child and child pornography pursuant to N.J.S.A. 2C:24-4, or child molestation as set forth in N.J.S.A. 2C:14-1 et seq.;

2. Abuse, abandonment or neglect of a child pursuant to N.J.S.A. 9:6-3;

3. Endangering the welfare of an incompetent person pursuant to N.J.S.A. 2C:24-7;

4. Sexual assault, criminal sexual contact or lewdness pursuant to N.J.S.A. 2C:14-2 through 2C:14-4;

5. Murder pursuant to N.J.S.A. 2C:11-3 or manslaughter pursuant to N.J.S.A. 2C:11-4;

6. Stalking pursuant to section 1 of P.L. 1992, c.209 (N.J.S.A. 2C:12-10);

7. Kidnapping and related offenses including criminal restraint, false imprisonment, interference with custody, criminal coercion, or enticing a child into a motor vehicle, structure, or isolated area pursuant to N.J.S.A. 2C:13-1

through 2C:13-5 and section 1 of P.L. 1993, c.291 (N.J.S.A. 2C:13-6);

8. Arson pursuant to N.J.S.A. 2C:17-1, or causing or risking widespread injury or damage, which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:17-2;

9. Aggravated assault, which would constitute a crime of the second or third degree pursuant to subsection b of N.J.S.A. 2C:12-1;

10. Robbery, which would constitute a crime of the first degree pursuant to N.J.S.A. 2C:15-1;

11. Burglary, which would constitute a crime of the second degree pursuant to N.J.S.A. 2C:18-2;

12. Domestic violence pursuant to P.L. 1991, c.261 (N.J.S.A. 2C:25-17 et seq.);

13. Terroristic threats pursuant to N.J.S.A. 2C:12-3;

14. An attempt or conspiracy to commit any of the crimes or offenses listed in (e)1 through 13 above; or

15. In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or offenses described in (e)1 through 14 above.

(f) As an exception to (e) above, the Department may approve the employment at, or administration of, a home or agency by an individual convicted of a crime specified in (e) above if all of the following conditions are met:

1. The Department determines that the crime does not relate adversely to the position the individual is employed in pursuant to the provisions of P.L. 1968, c.282 (N.J.S.A. 2A:168A-1 et seq.);

2. The conviction is not related to a crime committed against a child, as specified in (e) above;

3. The home or agency documents that the individual's employment or administration of the home or agency does not create a risk to the safety or well-being of children due to the nature and requirements of the position. As necessary, the home or agency shall identify restrictions regarding the individual's contact with, care or supervision of children;

4. The home or agency documents that the individual is uniquely qualified for the position due to specific skills, qualifications, characteristics or prior employment experiences; and

5. The Department determines that the individual has affirmatively demonstrated rehabilitation, pursuant to the factors specified in (g) below.

(g) For crimes and offenses other than those cited in (e) above, an individual may be eligible to receive a certificate or to administer, work at or reside in a home or agency if the

individual has affirmatively demonstrated to the Department clear and convincing evidence of rehabilitation.

1. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

i. The nature and responsibility of the position at the facility that the convicted individual would hold, has held or currently holds, as the case may be;

ii. The nature and seriousness of the offense;

iii. The circumstances under which the offense occurred;

iv. The date of the offense;

v. The age of the individual when the offense was committed;

vi. Whether the offense was an isolated or repeated incident;

vii. Any social conditions that may have contributed to the offense; and

viii. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the individual under their supervision.

2. Upon receipt of documentation submitted by the home or agency, indicating why the individual at issue should not be precluded from administering, working or residing at the home or agency, the Department, after assessing the facts on a case-by-case basis, shall make the final determination regarding the individual's rehabilitation, in keeping with the provisions of the State Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq.

3. The Department shall make the final determination regarding the suitability of the director of a home or agency with a criminal conviction other than those cited in (e) above.

4. For a current or prospective staff member, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent or household member with a criminal conviction other than those cited in (e) above, the director of the home or agency or the agency's board of directors shall make a determination regarding the individual's suitability upon the Department's determination that the individual has affirmatively demonstrated rehabilitation.

(h) If the director of a home or agency has knowledge that any individual specified in (a) above has criminal charges pending against the individual, the director shall promptly notify the Department to determine whether or not any action

concerning the individual is necessary in order to ensure the safety of the children who are placed in the home.

(i) If the Department is notified that any individual specified in (a) above is convicted of a crime or offense after the CHRI has been completed, the Department shall make a determination whether to suspend or revoke the certificate or require the home or agency to terminate the individual's employment or service, as applicable.

(j) Upon completion of the CHRI for an individual specified in (a) above, the Department shall notify the individual, and the home or agency as applicable, in writing, of the individual's qualification or disqualification for employment or service under section 4 or 5 of P.L. 2003, c. 186 (N.J.S.A. 30:4C-27.19 or 30:4C-27.20).

1. If the individual is disqualified, the convictions that constitute the basis for the disqualification shall be identified in the written notice to the individual.

2. The individual shall have 14 days from the date of the written notice of disqualification to challenge the accuracy of the CHRI.

3. If no challenge is filed or if the determination of the accuracy of the CHRI upholds the disqualification, the Department shall notify the home or agency that the individual has been disqualified.

4. The home or agency shall immediately terminate the disqualified individual's employment at the home or agency.

5. If the disqualified individual is a home or agency director, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent or household member, the Department shall deny, suspend, revoke or refuse to renew the certificate, as applicable.

6. The treatment home parent, teaching family home parent, alternative care home parent, or supervised transitional living home parent may choose to remove the disqualified household member from the home before the action against the certificate takes effect.

(k) A home or agency that has received an employment application from an individual, or currently employs a director or staff member, shall be immune from liability for acting upon or disclosing information about the disqualification or termination of that individual to another home or agency seeking to employ that individual, if the home or agency has:

1. Received notice from the Department or the agency's board of directors, as applicable, that the applicant, director or staff member has been determined by the Department or the board of directors to be disqualified from employment or service at a home or agency pursuant to P.L. 1968, c.282 (N.J.S.A. 2A:168A-1 et seq.); or

2. Terminated the employment of a staff member because the individual was disqualified from employment or service at the home or agency on the basis of a conviction of a crime pursuant to P.L. 1968, c.282 (N.J.S.A. 2A:168A-1 et seq.) after commencing employment or service at the home or agency.

(l) A home or agency that acts upon or discloses information pursuant to (k) above shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the home or agency acted with actual malice toward the individual who is the subject of the information.

New Rule by R.2005 d.374, effective November 7, 2005.

See: 37 N.J.R. 1942(a), 37 N.J.R. 4263(a).

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In (b), substituted "Department" for "Division"; in (d), substituted "Children and Families" for "Human Services"; in the introductory paragraph of (j), substituted "c. 186" for "c.186"; and in (j)5, substituted "Department" for "Division".

10:128-5.7 Child Abuse Record Information background checks

(a) As a condition of securing and maintaining a certificate, the home or agency shall provide written consent to the Department from the director and each staff member, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent, and household member at least 18 years old in a treatment home, teaching family home, alternative care home or supervised transitional living home, for a Child Abuse Record Information (CARI) background check to be conducted.

(b) If a director, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent, or household member refuses to consent to or cooperate in a CARI background check, the Department shall deny, suspend, revoke or refuse to renew the certificate, as applicable.

1. The home or agency may appeal the denial, suspension, revocation or refusal to renew, as specified in N.J.A.C. 10:128-2.4.

2. The treatment home parent, teaching family home parent, alternative care home parent or supervised transitional living home parent may choose to remove the household member so refusing from the home before the action against the certificate takes effect.

(c) If a staff member refuses to consent to or cooperate in a CARI background check, the home or agency shall immediately terminate the staff member's employment at the home or agency.

(d) Upon receipt of written consent from an individual specified in (a) above, the Department shall conduct a search of its records to determine if an allegation of child abuse or neglect has been substantiated, pursuant to section 4 of P.L. 1971, c. 437 (N.J.S.A. 9:6-8.11), against the individual.

1. The Department shall consider incidents of child abuse and neglect that were substantiated on or after June 29, 1995, to ensure that the perpetrator has had an opportunity to appeal a substantiated finding of child abuse or neglect.

2. The Department may consider incidents substantiated prior to June 29, 1995 if the Department, in its judgment, determines that the perpetrator poses a risk of harm to children in a home. In cases involving incidents substantiated prior to June 29, 1995 in which the Department determines that the individual is disqualified, the Department shall offer the perpetrator an opportunity for a hearing to contest the substantiation.

(e) If the Department determines that an allegation of child abuse or neglect has been substantiated against an individual specified in (a) above, the home or agency shall immediately terminate the individual's employment at the home or agency.

(f) If the Department determines that an allegation of child abuse or neglect has been substantiated against a director, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent, or household member, the Department shall also deny, suspend, revoke or refuse to renew the certificate of approval, as applicable.

1. The home or agency may appeal the denial, suspension, revocation or refusal to renew, as specified in N.J.A.C. 10:128-2.4.

2. The treatment home parent, teaching family home parent, alternative care home parent or supervised transitional living home parent may choose to remove the disqualified household member from the home before the action against the certificate takes effect.

3. If the incident was substantiated prior to June 29, 1995, the Department shall notify the individual in writing that the individual may request a hearing to contest the substantiation.

(g) If the Department determines that an allegation of child abuse or neglect has been substantiated against a staff member, the home or agency shall notify the staff member in writing that the termination of employment is based on a substantiated allegation of child abuse or neglect. If the incident was substantiated prior to June 29, 1995, the home or agency shall notify the staff member in writing that the staff member may request a hearing to contest the substantiation.

New Rule by R.2005 d.374, effective November 7, 2005.

See: 37 N.J.R. 1942(a), 37 N.J.R. 4263(a).

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

Substituted "Department" for "Division" throughout; and in the introductory paragraph of (d), substituted "c. 437" for "c.437".

10:128-5.8 Background check procedures for New Jersey homes and agencies

(a) Prior to the opening of a new home or agency located in New Jersey, the home or agency shall ensure that a request for a Criminal History Record Information (CHRI) background check, as specified in N.J.A.C. 10:128-5.6, and a Child Abuse Record Information (CARI) background check, as specified in N.J.A.C. 10:128-5.7, is submitted for each person identified in N.J.A.C. 10:128-5.6(a) and 5.7(a).

(b) Prior to the first renewal of a certificate on or after March 26, 2004 for an existing home or agency located in New Jersey, the home or agency shall ensure that a request for a CHRI background check, as specified in N.J.A.C. 10:128-5.6, is submitted for the director and each staff member, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent, and household member at least 18 years old.

(c) Prior to each renewal of a certificate on or after March 26, 2004 for an existing home or agency located in New Jersey, the home or agency shall ensure that a request for a CARI background check, as specified in N.J.A.C. 10:128-5.7, is submitted for the director and each staff member, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent, and household member at least 18 years old.

(d) Within two weeks after a new staff member begins employment at a home or agency or a new household member begins residing at a home located in New Jersey, the home or agency shall ensure that a request for a CHRI background check, as specified in N.J.A.C. 10:128-5.6, and a CARI background check, as specified in N.J.A.C. 10:128-5.7, is submitted for the individual.

(e) An individual shall not be left alone as the only adult caring for a child at the home until documentation from the Department showing compliance with a CHRI check and CARI check for the individual has been received by the home or agency.

New Rule by R.2005 d.374, effective November 7, 2005.

See: 37 N.J.R. 1942(a), 37 N.J.R. 4263(a).

10:128-5.9 Background check procedures for out-of-State homes and agencies

(a) For a home or agency located outside New Jersey, the home or agency shall ensure that the director and each applicant or staff member meet all applicable laws and regulations in that state governing criminal history record background checks and child abuse record information checks that may be required as a condition of employment.

(b) In the event that criminal history record background checks and child abuse record information checks are not mandated in that state, the home or agency shall require that the director and each applicant, staff member, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent, and household member at least 18 years old make a disclosure of any criminal conviction. The results of the disclosure shall be made available to the Department, so that the Department can determine the suitability of the individual for employment or service at the home or agency during the time children who are residents of New Jersey are placed in the home.

New Rule by R.2005 d.374, effective November 7, 2005.
See: 37 N.J.R. 1942(a), 37 N.J.R. 4263(a).

SUBCHAPTER 6. PROGRAM REQUIREMENTS

10:128-6.1 Treatment plan for children in group homes, psychiatric community homes for children, teaching family homes, treatment homes and alternative care homes

(a) Group homes, psychiatric community homes for children, teaching family homes and treatment homes shall develop, implement and maintain on file a written individual treatment plan for each child. The plan shall delineate how to meet that child's needs and to remediate the problems and behavior that led to the child's placement.

(b) Group homes, psychiatric community homes for children, teaching family homes and treatment homes shall form a treatment team that is responsible for the development of a treatment plan for each child. The treatment team shall consist of each of the following:

1. For group homes, psychiatric community homes for children and treatment homes:

- i. Staff members representing the clinical component;
- ii. Staff members representing the social work component;
- iii. Staff members representing the child care component;
- iv. Staff members representing the administration of the home, if necessary;
- v. Representatives from the child's responsible school district and/or current school district, if necessary;
- vi. The Division's case manager; and
- vii. The child's parents, if appropriate.

2. For teaching family homes:

- i. Staff members representing the clinical component, if applicable;
- ii. Teaching parents and any alternate teaching family staff members;
- iii. The teaching family consultant who shall attend the initial treatment planning meeting and shall attend at least one subsequent meeting every year;
- iv. Representatives from the child's responsible school district and/or current school district, if necessary;
- v. The Division's case manager; and
- vi. The child's parents, if appropriate.

(c) Group homes, psychiatric community homes for children, teaching family homes and treatment homes shall document in the child's record that the Division's case manager or other placing agency, the child's therapist, parents or legal guardian and the child's responsible and/or current school district, if appropriate, were invited to participate as members of the treatment team and assist in the development of the treatment plan and all subsequent revisions.

(d) Group homes, teaching family homes and treatment homes shall develop the initial treatment plan within 30 calendar days following a child's admission, implement the treatment plan for three months and review or revise the treatment plan at least every three months thereafter.

(e) Psychiatric community homes for children shall develop and implement the treatment plan within 10 working days following a child's admission and review or revise the treatment plan at least every month thereafter.

(f) The treatment plan shall include the following information:

1. The name of the child;
2. The date of the child's admission;
3. Updated medical and dental examinations, as specified in N.J.A.C. 10:128-7.2;
4. The date when the plan is developed or revised;
5. The names and titles of all persons having input and/or attending the development or review meeting;
6. The child's social, familial, emotional, medical, behavioral, and academic strengths and weaknesses;
7. Family or friends' visiting schedule or reasons for not scheduling visits;
8. Specific treatment goals in each program area and projected time frame for completing each goal;
9. Persons responsible for the implementation of techniques to be used to achieve treatment goals and objectives;

10. Techniques to be used to achieve each treatment goal;

11. Criteria to be used to determine whether each treatment goal is achieved;

12. A notation of progress made from the previous plan;

13. Documentation of efforts to achieve timely discharge, including, but not limited to, services needed by parents or other persons to whom the child will be discharged; and

14. For children who are 16 years of age and over, how the child is being prepared for self-sufficiency. This documentation shall include, but not be limited to, instruction in:

- i. Food preparation;
- ii. Budgeting and money management; and
- iii. Vocational planning and employment search efforts.

(g) Group homes, psychiatric community homes for children, teaching family homes, alternative care homes and treatment homes shall send to the Division's case manager or other placing agency a copy of the treatment plan and revisions to it within 30 calendar days after the treatment planning meeting and retain a copy of the plan in the child's record for at least four years after the child's discharge.

(h) Group homes, psychiatric community homes for children, teaching family homes and treatment homes shall ensure that the child's treatment plan and any revisions to it are explained to the child, his or her parents and all staff members responsible for the plan's implementation. If the home does not explain the child's treatment plan to the child's parents, the home shall document in the child's case record the reasons why the plan was not explained to the parents.

Amended by R.2010 d.109, effective June 21, 2010.
See: 41 N.J.R. 4170(a), 42 N.J.R. 1200(b).

Section was "Treatment plan for children in group homes, teaching family homes, treatment homes and alternative care homes". Inserted "psychiatric community homes for children," throughout; in the introductory paragraph of (b), deleted a comma following "family homes"; added new (e); recodified former (e) through (g) as (f) through (h); in (g), substituted the second occurrence of "and" for "any"; and in (h), deleted a comma following the first occurrence of "parents".

10:128-6.2 Discharge planning

(a) For discharges that can be anticipated, the home shall develop a plan with the Division's case manager or other placing agency staff at least 30 days before the child's discharge. The plan shall be sent to the Division's case manager or other placing agency and shall specify the following information:

1. The date of admission;
2. The anticipated or actual date of discharge;

3. Details of the events and circumstances leading to the decision to discharge;

4. The name and address of the individual or agency to whom the child will be discharged and the rationale for planning a discharge to that individual or agency; and

5. An assessment of the child's continuing needs, including, but not limited to, consideration of health care, behavior management and educational or vocational training.

(b) For discharges that were not anticipated at least 30 calendar days ahead of time, the home shall send the Division's case manager or other placing agency a written plan at least 10 working days prior to the child's discharge. This plan shall specify the following information:

1. The date of admission;
2. Details of the events and circumstances leading to the discharge;
3. Efforts made to locate a runaway, if relevant;
4. An assessment of the child's continuing needs including, but not limited to, health care, behavior management and educational and vocational training; and
5. Recommendations for providing follow-up services in the child's new environment.

(c) For emergency discharges that result in the immediate placement of the child in a facility such as a detention center, hospital, psychiatric facility or any other placement outside the home, the home shall notify the Division's case manager or other placing agency by the next working day by telephone. The home shall send a written discharge plan within 10 days after the child's discharge. This plan shall specify the information outlined in (b)1 through 5 above.

10:128-6.3 Case management plan for children in supervised transitional living homes

(a) The supervised transitional living home shall develop, implement and keep on file a written individualized case management plan for each child. The plan shall delineate how to meet the child's needs and to prepare the child for independent living in the community.

(b) The supervised transitional living home shall develop the initial case management plan within 30 calendar days following a child's admission and shall review or revise the initial case management plan at least every three months thereafter.

(c) The supervised transitional living home shall document in the child's record that the Division's case manager or other placing agency, and the responsible school district of the child, if applicable, were asked to participate in the meeting to develop the case management plan and all subsequent meetings to revise the plan.

(d) The supervised transitional living home shall invite the child's parents to the planning meeting. If the parents do not attend the meeting, the supervised transitional living home shall ensure that the child's case management plan and any revisions to it are explained to the child's parents, or document in the child's case record the reasons why the plan was not explained to the parents.

(e) The case management plan shall include the following information:

1. The name of the child;
2. The date of the child's admission;
3. Updated medical and dental examinations, as specified in N.J.A.C. 10:128-7.2;
4. The date of the meeting at which the plan is developed or revised;
5. The names and titles of all staff members and any other persons attending the development or review meeting;
6. The child's social history, including family background, emotional and behavioral problems and academic strengths and weaknesses;
7. The family visiting schedule or reasons why visits were not scheduled;
8. Specific case management goals and plan for achieving and monitoring progress;
9. A notation of progress made from the previous plan, if relevant;
10. Goals and recommendations for discharge and aftercare; and
11. A plan for helping the child become self-sufficient, including, but not limited to, instruction in:
 - i. Food preparation;
 - ii. Budgeting and money management; and
 - iii. Career planning and employment and skills training.

(f) The supervised transitional living home shall send to the Division's case manager or other placing agency a copy of the case management plan or any revisions to it within 30 calendar days after the meeting and shall retain a copy of the plan in the child's record.

10:128-6.4 Work and employment

(a) The home shall not allow a child to be responsible for duties assigned to staff members.

(b) The home may require children to perform work assignments in the home that have an instructive value, including normal household chores, so long as these assign-

ments are not scheduled to interfere with a child's school program, other aspects of the treatment or case management plan, or any regularly scheduled program activity for the children in the home.

(c) The home's staff members shall encourage children to hold part-time employment outside the home, but shall ensure that the work does not interfere with the child's school program, or other aspects of the treatment or case management plan.

1. The home may require a child to maintain specific academic standards as a condition for seeking or maintaining employment.

2. The home may prohibit a child's employment, if a child does not maintain appropriate academic or behavioral standards, or if the job is determined to be detrimental to his or her health, safety or well-being.

10:128-6.5 Money and allowance

(a) Group homes, psychiatric community homes for children, teaching family homes, alternative care homes and treatment homes shall provide opportunities for all children to receive an allowance or to earn money up to an amount specified in their placement contract or based upon the nature or extent of the job or chore.

(b) The home shall not require a child to assume responsibility for expenses for his or her care and treatment, laundry or hygiene supplies, except for amounts needed to pay for intentional damage done to the home by the child.

1. When a child damages the home's property, the home shall identify the child who damaged the property in an incident report before requiring the child to pay restitution.

2. The restitution payments shall not exceed 50 percent of a child's weekly income from allowance.

3. Children who are working or have savings or choose to use their allowance shall have the opportunity to make a lump sum payment for intentional damages, if deemed clinically appropriate and consistent with the child's treatment plan.

4. The home may offer the child the option of performing additional chores in lieu of restitution payments, as long as these chores comply with the provisions specified at N.J.A.C. 10:128-6.4(b).

Amended by R.2010 d.109, effective June 21, 2010.

See: 41 N.J.R. 4170(a), 42 N.J.R. 1200(b).

In (a), inserted "psychiatric community homes for children,".

10:128-6.6 Visitation and communication

(a) The treatment team shall determine the family members and friends with whom the child may communicate and visit.

1. The treatment team shall identify visitors with whom the child may have contact at intake and may revise the list at subsequent treatment planning or case management meetings.

2. Between treatment planning or case management meetings, the home may curtail a child's contact with individuals after consultation with the Division or other placing agency if the home:

- i. Informs the child of the conditions of and reasons for restriction or termination; and
- ii. Documents in the child's record the reasons for curtailing contact with the specified individuals.

(b) The home shall develop a visitation policy and explain the policy to the child and parents at intake. The visitation policy shall specify:

1. The hours for visiting family members and how alternative hours may be arranged;

2. That family visits shall not be denied for a child's infraction of rules, but may be denied if such visits would be contrary to the child's treatment plan and the home shall document denied visits in the child's case record;

3. That visitors who appear to be under the influence of drugs or alcohol or in the possession of a firearm/weapon shall not be allowed to visit and shall not be allowed to transport the child;

4. That the child may visit his or her Division case manager or other placing agency worker upon request and that these visits shall not be denied for any reason; and

5. The hours when a child may visit with friends and whether a child's visits with friends may be curtailed for a child's infraction of the rules.

(c) The home shall adhere to the following policies for the use of the telephone by children:

1. The home shall permit access to a telephone by the child for telephone conversations with the Division's case managers or other professional persons involved in the child's treatment planning.

- i. The child shall not be charged a cost for these telephone calls; and
- ii. The home shall provide adequate privacy for these telephone calls and all other calls but may locate the telephone in an area where a staff member can observe the child's reactions.

2. The home shall permit reasonable access to the telephone by the child for telephone conversations with his or her parents. The home may impose restrictions on these conversations if the following conditions exist:

- i. The cost of the telephone calls is prohibitive; or

ii. The home is complying with a court order which limits the child's contact with his or her parents.

3. When the home imposes restrictions on a child's access to telephone conversations with his or her parents, as specified in 2 above, the home shall:

- i. Explain the nature of any restrictions to the child; and
- ii. Document the rationale for imposing restrictions in the child's record.

4. The home shall develop and maintain on file a written policy governing the use of the telephone by children when they communicate with friends. The home may impose one or more of the following conditions:

- i. Restricting the time and duration of telephone calls;
- ii. Requiring the child to pay for telephone calls with friends;
- iii. Denying the child use of the telephone for infraction of house rules; and
- iv. Requesting the child to identify telephone callers.

5. The home shall not use tapes or any other mechanical listening devices to monitor a child's telephone calls.

(d) The home shall not restrict the amount of mail a child sends or receives, unless a court order stipulates such restriction.

1. The child shall receive a postage allowance and writing materials for corresponding with family, friends and other persons who have a positive impact on the child's treatment.

2. No staff member shall open the child's parcels or letters or read the child's letters unless the child is physically incapable of doing so, and then only in the presence of both the child and another staff member.

3. A staff member may ask a child to open parcels and letters in the staff member's presence along with at least one other staff member only if he or she suspects the contents to be contraband, as specified in N.J.A.C. 10:128-6.15.

i. If the child refuses to comply with the staff member's request, the home shall store the parcel or letter in a secure place until the child complies or is discharged.

ii. The home shall document the rationale for and the outcome of all incidents when a staff member asks a child to open mail in a staff member's presence.

10:128-6.7 Education

(a) The home shall ensure that each school-age child receives an educational program pursuant to N.J.S.A. 30:4C-26(c) and N.J.S.A. 18A:7B-12(a).

(b) The home shall make efforts to ensure that the child is enrolled in a local community school, if appropriate.

1. The home shall document efforts to locate a school setting for the child and specify how the child's school progress will be monitored.

2. After the child is enrolled in a school program, the home shall document contacts with school personnel to discuss the child's progress at each treatment planning meeting.

(c) If a child is receiving education through home instruction, the home shall:

1. Provide space within the home for such home instruction; and

2. Document when home instruction was provided.

(d) If a school-age child is not receiving an educational program, the home shall:

1. Document in the child's record the reasons why educational programming is not feasible;

2. Maintain contact with the responsible school district and/or the local school district to ensure that the school districts are actively pursuing alternate educational programming; and

3. Document in the child's record what the child is doing during school hours.

(e) The home shall provide appropriate instructional, educational and recreational activities for children not of school age who are in the home during school hours. These activities shall be reflected in the child's treatment plan.

10:128-6.8 Recreation

(a) Group homes, psychiatric community homes for children, teaching family homes and treatment homes shall plan or provide a balanced on-grounds and off-grounds recreational program. The recreation program shall include planned individual and group activities.

(b) Group homes shall have a written schedule of daily planned recreational and leisure time activities.

1. The home shall ensure that this schedule is developed with input from staff members and children.

2. The home shall keep these schedules on file for 90 calendar days.

(c) Supervised transitional living homes shall encourage children to use their leisure time productively by documenting their efforts to:

1. Inform children of appropriate activities in the community;

2. Teach children how to manage time and money to be able to participate in recreational activities; and

3. Teach children how to use public transportation.

Amended by R.2010 d.109, effective June 21, 2010.

See: 41 N.J.R. 4170(a), 42 N.J.R. 1200(b).

In (a), inserted "psychiatric community homes for children,".

10:128-6.9 Religion

(a) If a home's program has a particular religious orientation, the home shall maintain on file in the home a written description of its religious orientation and any religious practices or restrictions that are observed. Before the child's admission, the home shall give this description to the child and the parents and discuss its religious orientation, if any.

(b) The home shall ensure that every child is afforded the opportunity to participate freely in religious activities and/or services in accordance with his or her own faith or with that of his or her parents.

(c) The home shall make reasonable efforts to ensure that every child is permitted to attend religious activities and services in the community and the home shall make reasonable efforts to arrange for or directly provide transportation, if necessary, for any child who wishes to attend religious activities or services unless deemed clinically inappropriate.

(d) The home shall not coerce or require children to participate in religious activities.

1. The home shall not punish children who choose not to participate in religious activities.

2. The home shall not give special rewards to children for participating in religious activities.

10:128-6.10 Rest, bedroom and sleep

(a) The home shall ensure that:

1. Every child is provided with a standard household bed or crib, as age appropriate, in sanitary condition;

2. Every set of bunk beds is limited to two in height:

i. Have railings on top bunks that are no more than 3½ inches from the top of the bed frame; and

ii. Have mattresses that are least five inches from the top of the railing;

3. Every bed or crib is equipped with a firm, sanitary, fire retardant mattress and waterproof mattress cover;

4. Every child is provided with sanitary bed linens that are changed weekly, a blanket or other suitable covering that is cleaned or replaced, as necessary, and a pillow;

5. Two or more children do not share the same bed;

6. Children who are 18 months of age and older do not share the same bedroom with an adult, unless the adult is their mother and they are in placement in a home that provides services to pregnant and parenting adolescents;

7. A child does not sleep on the same bed or crib that another child has occupied unless the bed linen is changed;

8. Children who are five years of age or older occupy a bedroom only with members of the same sex;

9. Any bedroom occupied by children has natural light and ventilation provided by one or more windows opening directly to the exterior;

10. An unfinished attic or basement is not used for sleeping purposes;

11. All rooms used as bedrooms are not used for any other purpose;

12. Each child is provided with a chest of drawers or some other permanent arrangement for storage of clothing and other personal belongings, including closet space or the equivalent;

13. Each child is permitted reasonable freedom to express his or her personal tastes in the decoration of his or her bedroom or bedroom area;

14. Each child has the opportunity for at least eight hours of uninterrupted sleep each night. Schedules for waking and retiring each day shall be adapted according to the ages, physical condition and characteristics of the children in each group;

15. The facility does not permit more than four children to occupy a designated bedroom space for sleeping. If partitions are used to designate a bedroom space, the facility shall ensure that the arrangement and height of partitions shall provide privacy for the occupants of the space;

16. Every bedroom is provided with a reading lamp or other means of artificial light for quiet activities; and

17. Every bedroom window is equipped with curtains, blinds or shades.

10:128-6.11 Food and nutrition for children

(a) The home shall ensure that each child is provided with three nutritious meals daily, either in the home itself or in the community.

1. The home shall make daily snacks available for children who desire them, unless there is a medical reason not to provide them.

2. The home shall select, store, prepare, and serve food in a sanitary and palatable manner.

3. Homes that serve between six and 12 children shall prepare and date menus and keep the menus on file at the home for a minimum of 30 calendar days.

4. The home shall provide table service for children.

5. The home shall serve meals in a manner that makes mealtime a pleasant social experience.

6. The home shall not force-feed or otherwise coerce a child to eat, except by order of a physician.

(b) The home shall ensure that the daily diet for each child includes a balance of foods from all essential food groups.

1. The home shall ensure that each meal contains a sufficient amount of food for every child, including provisions for additional helpings.

2. The home shall make available, as necessary, an alternate choice of food for each meal served for children on special diets, with documented food allergies, or children who, because of religious beliefs, cannot eat particular foods.

3. The home shall follow individualized diets and eating schedules that are submitted to the home by the child's physician or registered dietitian.

Amended by R.1999 d.337, effective October 4, 1999.

See: 31 N.J.R. 1436(a), 31 N.J.R. 2886(a).

In (a)3, substituted "Homes that serve between six and 12 children" for "The home".

10:128-6.12 Pets

(a) The home shall ensure that pets kept by or located in the home, regardless of ownership, meet the appropriate local ordinances that permit the type(s) and quantities of animals, and shall be:

1. Domesticated and non-aggressive, or exotic animals that are permitted to be owned in accordance with the rules set forth by the New Jersey Department of Health and Senior Services or other applicable out-of-State agency;

2. Free from disease;

3. Vaccinated, if applicable, as prescribed by law or as recommended by a licensed veterinarian. The record of the vaccinations shall be maintained on file at the home, along with the name and address of the licensed veterinarian providing care for the pet;

4. If sick, removed from the area occupied by children, until the pet has been examined by a licensed veterinarian;

5. Effectively controlled by leash, command or cage; and

6. Prohibited from toilet facilities for staff members and children.

(b) The home shall ensure that animal waste is disposed of in a manner that prevents the material from becoming a community health or nuisance problem. Accepted methods include:

1. Burial;
2. Disposal in sealed plastic bags; and
3. Utilization of:
 - i. A municipally approved trash removal system; or
 - ii. A sewage system for feces.

(c) The home shall ensure that all pet dishes, food and equipment used for pets are kept out of the home's food preparation and food serving areas when food is being prepared or served.

(d) If a pet poses a health hazard to children, the home shall take corrective action that is approved by the licensing agency.

(e) The home shall ensure that pregnant adolescents are not permitted to clean a cat's litter box.

10:128-6.13 Restrictive behavior management practices

(a) Homes that choose to utilize restrictive behavior management practices shall develop policies and procedures that assist children in gaining control of their behavior, protect the

children from self-harm, protect other children or staff members, and prevent the destruction of property.

(b) The home shall:

1. Obtain written approval from the Office of Licensing for restrictive behavior management practices that are not identified in (i) and (j) below, that the home plans to utilize, prior to their implementation with children; and
2. Not utilize restrictive behavior management practices as a means of punishment, for the convenience of staff members, or as a substitute for a treatment program.

(c) Prior to the child's admission, the home shall:

1. Explain to the parents, the child, the Division's case manager or other placing agency any restrictive behavior management practice that is used, the circumstances under which it will be employed, and the possible risks involved; and
2. Obtain written consent for the use of each restrictive behavior management practice the home uses from the child's parents or legal guardian.

(d) The home shall ensure that the consent form is written in plain language and is explained to the parents.

(e) Whenever the parents refuse to consent to a restrictive behavior management practice, revoke their consent for the practice, or cannot be located to give consent, the home shall:

1. Refrain from utilizing the practice unless the child presents an imminent danger to self or others, and apply other, non-restrictive interventions until such consent is obtained and continue to make reasonable efforts to obtain informed consent; and

2. Request that the Division's case manager and the placing agency obtain the necessary consent, either through administrative action pursuant to an agreement between the parent, the Division and other placing agency or through legal action, if necessary to protect the best interests of the child.

(f) The home shall maintain a copy of all signed consent forms in the child's records.

(g) At least 10 working days before each staffing or treatment planning meeting for a child for whom the home uses a restrictive behavior management practice, the home shall send a letter to the child's parents and the Division's case manager and other placing agency, which shall:

1. Inform them of the frequency and duration of any restrictive behavior management practice that was used with the child;

2. Describe how the child responded to the treatment; and

3. Invite them to the treatment planning meeting to discuss the child's program and progress.

(h) The home shall develop and maintain on file in the home or home's administrative office a policy indicating which restrictive behavior management practices the home uses.

(i) Homes that utilize physical restraint with children shall:

1. Ensure that physical restraint is used only to protect a child from self-harm, or to protect other children or staff members, or to prevent the destruction of property when the child fails to respond to non-restrictive behavior management interventions;

2. Ensure that staff members only use physical restraint techniques and holds, such as escort holds approved by the Office of Licensing, which staff members may implement to move a child from one place to another, the basket hold or restraining the child in the prone position and only when the child:

i. Has received a medical examination that documents that the child is in good health; and

ii. Does not have a documented respiratory ailment such as asthma, a spinal condition, fractures, seizure disorder or other physical condition that would preclude the child from being restrained, unless the physician authorizes such techniques;

3. Ensure that a minimum of two staff members are involved in the physical restraint and at least one staff member monitors the child's breathing by maintaining constant visual face-to-face contact with the child during the restraint;

4. Ensure that a child is released from restraint as soon as he or she has gained control;

5. Document each physical restraint incident in an incident report that reflects the following:

i. The name of the child;

ii. The date and time of day the restraint occurred;

iii. The name(s) of all staff members involved in the restraint;

iv. Precipitating factors that led to the restraint;

v. Other non-restraint interventions attempted;

vi. The time the restraint ended;

vii. The condition of the child upon release; and

viii. A medical review by the nurse or physician if injury to the child is suspected;

6. Ensure that all restraint incidents are:

i. Reviewed by a supervisory staff member within one working day after the incident; and

ii. If needed, discussed with the staff member involved in the restraint incident within one working day after the incident.

7. Ensure that staff members who are involved in the restraint of a child receive training in safe techniques for physical restraint and that such training is updated at least annually;

8. Prohibit staff members from utilizing the following practices during a physical restraint:

i. Pulling a child's hair;

ii. Pinching a child's skin;

iii. Twisting a child's arm or leg in such a manner that would cause the child pain;

iv. Kneeling, straddling or sitting on the chest or back of a child in such a manner as to inhibit the child's breathing;

v. Placing a choke hold on a child;

vi. Bending back a child's fingers;

vii. Intentionally shoving a child into walls and objects; and

viii. Allowing other children to assist in the restraint; and

9. Ensure that staff members are trained in escape, release and defensive blocking techniques approved by the Office of Licensing, to be used when staff members are placed at risk of physical injury during the implementation of a physical restraint.

(j) Homes that utilize exclusion shall:

1. Inform staff members through written policy of the circumstances when exclusion may be utilized as a behavior management intervention, such as:

- i. Disruptive behavior, including fighting, name calling and pushing;
- ii. Increased agitation on the part of the child;
- iii. Non-compliant behavior or failure to participate in the program; and
- iv. Uncontrollable emotional outbursts such as crying, screaming and inappropriate laughter;

2. Ensure that the child being excluded has no record of suicidal behavior;

3. Prohibit more than one child from being excluded in a room or area at a time;

4. Ensure that at least one staff member is responsible to make visual contact with the child every 10 minutes and is within hearing distance of a child when the child is removed from the group;

5. Ensure that the home does not utilize a closet, bathroom, unfinished basement, unfinished attic, stairway, locked room or other unapproved area when excluding a child from the group;

6. Ensure that the exclusion of a child from the other children does not exceed 30 consecutive minutes, unless there is direct verbal contact by a staff member to assess if the child is ready to return to the other children prior to the end of the 30 minutes and a child is not excluded from the group for more than a total of two hours in a 24-hour period, unless there are circumstances documented in the child's treatment plan by a physician's written order, or a physician's verbal order to the nurse documented in the child's record extending the exclusion time;

7. Document each exclusion of a child in an incident report that reflects the following:

- i. The name of the child;
- ii. The date and time of day the exclusion occurred;
- iii. The name(s) of all staff members observing the child;
- iv. Precipitating factors that led to the exclusion;
- v. Other intervention attempted;
- vi. The time the exclusion ended; and

vii. The condition of the child upon release; and

8. Ensure that the child is reintroduced to the group in a sensitive and non-punitive manner as soon as he or she has gained control.

(k) The home shall not utilize mechanical restraint on any child, such as:

- 1. A straight jacket;
- 2. Leg irons;
- 3. A papoose board;
- 4. A rope;
- 5. Metal handcuffs;
- 6. Body wraps;
- 7. Body tubes;
- 8. Teflon handcuffs;
- 9. Blanketing; and
- 10. Four and five point restraint.

(l) The home shall not have a behavior management room, which is a room specifically designed and constructed for the isolation of children.

Amended by R.1996 d.118, effective March 4, 1996.

See: 27 N.J.R. 4266(a), 28 N.J.R. 1379(c).

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In (b)1, substituted "Office of Licensing" for "Bureau" and "their" for "its"; in (i)2, deleted "Bureau-approved" preceding "escort" and substituted "approved by the Office of Licensing, which" for "that"; and in (i)9, deleted "Bureau-approved" preceding "escape" and inserted "approved by the Office of Licensing".

10:128-6.14 Discipline and control

(a) The home shall develop house rules to help the children develop self-control and conform to acceptable patterns of social behavior.

- 1. The home shall put the house rules in writing.
- 2. The house rules shall include a rationale for such rules and delineate the consequences for infractions.
- 3. The home shall explain its disciplinary practices individually with each child at the time the child is placed in the home.
- 4. The house rules shall be maintained on file in the home and made available to parents, as specified in N.J.A.C. 10:128-3.3.

(b) Homes that use time out as a means of disciplining children and to teach them self-control shall:

- 1. Develop written guidelines and criteria for staff members using time out with children;

2. Discontinue the time out as soon as the child is under instructional control;

3. Ensure that the length of time for each time out does not exceed 30 minutes; and

4. Ensure that the time out does not take place in a closet, bathroom, unfinished basement, unfinished attic, stairway, locked room or other unapproved area.

(c) The home shall assign responsibility for the discipline, control, and supervision of children to staff members and shall not delegate that responsibility to other children.

(d) The home shall not threaten discipline or administer discipline to a child for the misbehavior of another child or group of children.

(e) The home shall prohibit the following types of punishment from being used on a child:

1. Any type or threat of physical hitting or the use of corporal punishment;

2. Forced physical exercise or forcing a child to take an uncomfortable position;

3. Subjection to verbal abuse, ridicule, repetitious writing, humiliation, or other forms of degradation;

4. Deprivation of meals, snacks, sleep, mail, clothing appropriate to the season or time of day, or verbal communication;

5. Mechanical or chemical restraint;

6. Assignment of overly strenuous physical work;

7. Exclusion from any essential program or treatment service, such as education or clinical treatment;

8. Refusal or entry to the residence;

9. Temporary suspension and return of a child from the home to a parent, relative, foster home, or shelter, unless approved by the placing agency; and

10. Seclusion in a locked room.

10:128-6.15 Search and seizure of weapons and contraband

(a) Homes may conduct searches for weapons or contraband, provided that they maintain on file in the home written policies and procedures that are consistent with the requirements of this manual.

1. The home shall define contraband to include illegal drugs, unauthorized property, stolen property or items otherwise obtained illegally.

2. The home shall explain the policy and distribute copies of the written policy to children and their parents upon admission and at least annually thereafter.

3. The home shall specify the actions that it will take when weapons or contraband are found.

(b) The home shall prohibit all staff members, consultants and volunteers from strip searching a child for any reason.

(c) The home shall permit frisk searches (surface searches of the outer clothing) of a child where there is reasonable suspicion that the child is in possession of a weapon.

1. The home shall prohibit staff members from reaching into a child's pockets unless the frisk search confirms the reasonable belief that the child is in possession of a weapon.

2. The home shall not permit reaching into a child's pockets, but may permit frisk search of a child who is suspected of possessing illegal drugs when:

i. The home has met the requirements as specified in (d) below;

ii. The child refuses to empty his or her pockets or belongings; and

iii. The police refuse to respond to the home's request to conduct a lawful search.

3. The home shall not permit frisk searching a child who is suspected of possessing contraband other than a weapon or illegal drugs.

4. The home shall ensure that any frisk search is conducted:

i. In the presence of two staff members, one of whom has supervisory or administrative responsibilities in the home; and

ii. Only by staff members of the same sex as the child. If same sex staff members are not available, staff members shall provide one-to-one supervision of the child, until the search can be properly conducted.

5. The home may choose to use an electronic wand or other similar noncontact device on a child who is suspected of possessing a weapon.

i. The home shall obtain written approval from the Office of Licensing for the use of an electronic wand or other similar noncontact device prior to its use with children, which approval shall be based on the fact that the device is safe and presents no harm to the children;

ii. The home shall maintain on file a written policy that outlines the use of an electronic wand or other similar noncontact device;

iii. The home shall inform children and parent(s) that an electronic wand or other similar noncontact device may be used to search for a weapon; and

iv. All staff members who use an electronic wand or other similar noncontact device shall be instructed in its use.

(d) When the home has reasonable suspicion that a child is carrying illegal drugs or other contraband in a garment, pocket, purse, or other possession within the child's immediate control, the home shall ensure that the staff member:

1. Asks the child voluntarily to empty any garment, pocket, purse or other possession;
2. Inspects all such items that are in plain view; and
3. Summons a law enforcement officer to conduct a lawful search of the possessions within the child's immediate control whenever the child refuses a voluntary search by the home staff member.

(e) The home may choose to conduct searches for weapons and illegal drugs as a part of the home's general practice, when residents return from a home visit or unsupervised trip into the community, provided that:

1. The home establishes and maintains on file a written policy that outlines the conditions/circumstances under which these searches may be conducted. Such searches shall be predicated upon reasonable suspicion and shall be limited to the reasons justifying the intrusion;

2. Children are informed that these searches may be conducted as a part of the home's general practice and parents are notified in writing that these searches may be conducted as a part of the home's general practice;

3. Only staff members who receive instruction in such search practices are permitted to conduct searches of a child's garment, pocket, purse, or other possession within the child's immediate control;

4. Such searches are conducted in the presence of two or more staff members;

5. Staff members document such searches in an incident report, when weapons, illegal drugs or other contraband are uncovered. The home shall document such searches that do not result in the discovery of weapons, illegal drugs or other contraband in a log, or may choose to document such incidents in an incident report;

6. The home establishes and maintains on file a written policy that addresses the safeguarding and disposal of weapons that are discovered as a part of a search or surface search, as specified in (c) above and, if appropriate, submission of weapons that are recovered to the local police; and

7. The home establishes and maintains on file a written policy that addresses the safeguarding and disposal of drugs that are discovered as a part of a search or surface search, as specified in (c) above and, if appropriate, submission of drugs that are recovered to the local police.

(f) If a home has reasonable suspicion that a child's room or other possessions not within a child's immediate possession or control, contain contraband, stolen property or weapons, the home may conduct an unannounced search if:

1. The home has explained and documented this practice to the child and his or her parents, as specified in N.J.A.C. 10:128-3.3 and 3.6;

2. The search is conducted in the presence of two staff members, one of whom has supervisory or administrative responsibility; and

3. The home allows the child, if the child is present in the home at the time of a search, an opportunity to observe the search. If the child declines the opportunity, the staff members may conduct the search in the child's absence.

(g) When unannounced room searches occur, as specified in (f) above, the home shall verify which child is responsible for any weapon or contraband brought into the home before imposing a disciplinary action or sanction on the child.

(h) Before a home conducts a blood or urine screening on a child to determine substance abuse, the home shall ensure that:

1. Substance abuse screenings are conducted only under the following limited circumstances:

- i. When screening is ordered by the court;

- ii. When the home is specifically designated as a drug treatment facility; or

- iii. When ordered by a physician who has determined that such screening is necessary; and

2. Substance abuse screening are conducted only if:

- i. The home has informed the child and parents, if available, beforehand about the screening;

- ii. The home uses a licensed laboratory, clinic or an FDA-approved home drug screening/testing kit to conduct the screening, including drawing the sample and completing the analysis. The home may use its own medical staff members to draw the sample that will be submitted to a licensed laboratory or clinic, provided that:

- (1) Such medical staff members receive training in the drawing, labeling and storage of samples; and

- (2) The home develops a written policy and procedures that specifies the chain of custody of the sample prior to the sample being sent and/or picked up for analysis;

- iii. The home ensures that the child has privacy when a urine sample is collected, unless the home documents that the child has a history of falsifying samples. If the child has such a history, the home shall request appropriate medical staff or a staff member from the

home of the same sex as the child to witness or verify that the child is not falsifying samples; and

iv. The home verifies the accuracy of all positive tests through a second screening; and

3. Substance abuse screenings are discontinued whenever previous screenings result in three consecutive negative readings after the initial positive reading was documented, unless a court order requires continued screenings.

(i) The home shall maintain on file an incident report for every instance involving a frisk search, the use of an electronic wand or other similar noncontact device, a general practice search as specified in (e) above when weapons, illegal drugs or other contraband are discovered, a staff member's request for a child to empty a possession within the child's immediate control, a room search resulting in the discovery of weapons, illegal drugs or other contraband, and a blood or urine screening.

Amended by R.1996 d.118, effective March 4, 1996.

See: 27 N.J.R. 4266(a), 28 N.J.R. 1379(c).

Amended by R.1999 d.337, effective October 4, 1999.

See: 31 N.J.R. 1436(a), 31 N.J.R. 2886(a).

In (c), rewrote 2, inserted 3, renumbered former 3 as 4, and added 5, and in (h), inserted "the use of an electronic wand or other similar noncontact device."

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In (c)5i, substituted "Office of Licensing" for "Bureau".

10:128-6.16 Firearms and weapons

(a) The home shall not maintain any firearm, chemical or other weapon within or on the grounds of the home.

(b) The home shall prohibit any staff member or child to possess any firearm, chemical or other weapon within or on the grounds of the home.

(c) As an exception to the requirements in (a) and (b) above, treatment homes and teaching family homes that are not State-owned may maintain a weapon, if they meet the following requirements:

1. The treatment home parents and teaching family home parents shall provide documentation that all weapons in the home that are required to be registered according to State law have the proper license;

2. The treatment home parents and teaching family home parents shall sign a statement that they will not share or expose the weapon to the children in the home; and

3. The treatment home parents and teaching family home parents shall store all weapons in a locked, steel gun vault approved by the Office of Licensing.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In (c)3, deleted "Bureau-approved," preceding "locked" and inserted "approved by the Office of Licensing".

10:128-6.17 Clothing

(a) The home shall take measures to ensure that each child has an adequate personal supply of clean, well-fitting and attractive clothing and footwear appropriate to his or her age, gender, individual needs, community standards, and season.

1. The home shall ensure that each child's clothing is kept clean and in good repair. The home may require children 12 years of age and older to do their own laundry.

2. The home shall not require children to wear any article of clothing that would explicitly identify them as a resident of the home.

SUBCHAPTER 7. HEALTH REQUIREMENTS

10:128-7.1 Comprehensive health plan for children

The home shall prepare and implement a comprehensive health plan to ensure that each child's medical, dental, mental health, and other health needs are met adequately and promptly.

10:128-7.2 Health care and medical treatment for children

(a) The home shall identify a physician or health care organization who will assume responsibility for routine, emergency and follow-up medical care of each child.

(b) Within 72 hours after admission, the home shall ensure that each child receives a medical examination, as defined in (e) below, unless the child had received such a medical examination within 30 calendar days prior to his or her placement.

1. The home may extend the time frame up to 30 days for vision screenings and hearing screenings, as specified in (e)liii and iv below, that are required as part of the child's comprehensive physical examination.

2. The home shall ensure that vision and hearing screenings, as specified in (e)liii and iv below, are obtained within 30 days prior to the child's admission or within 72 hours after admission when there are indications that the child may have vision or hearing problems.

(c) When the home suspects that a child is ill or carrying a contagious disease, the child shall be examined by a physician prior to admission.

(d) When the home suspects that a child has been abused or neglected the home shall ensure that the child is examined by a physician immediately upon admission.

(e) The home shall ensure that each child receives an annual comprehensive physical examination and maintain a copy of this physical examination in the child's record.

1. The physical shall include, but is not limited to:

- i. A measurement of height and weight;
- ii. A determination of blood pressure;
- iii. An objective vision screening which uses a Titmus or Snellen test, or equivalent;
- iv. A hearing screening using an audiometer and, if indicated, tympanometry;
- v. A hematocrit or Hemoglobin test, if indicated; and
- vi. A urinalysis, if indicated.

2. The home may use vision and hearing screening tests completed at the child's school if these tests meet the requirements specified in (e)1iii and iv above.

3. The home shall ensure that eye glasses, orthopedic apparatus or other equipment is available to each child who requires them.

4. The home shall ensure that all children 13 years of age and under receive a Mantoux test unless they have had tuberculosis, and ensure follow-up with the physician if test results are positive.

5. The home shall ensure that all children are appropriately immunized.

(f) The home shall ensure that each child receives a dental examination within three months following admission and at least semi-annually thereafter.

(g) The home shall ensure that children between two and six years of age receive developmental evaluations by a physician, nurse or other appropriate health official.

10:128-7.3 General medical practices

(a) The home shall ensure that any medical, dental, psychological and psychiatric treatment or medication administered to a child is explained to the child.

(b) When serious accidents or illnesses occur to a child, the home shall take necessary emergency action and notify the parents and the Division's case manager or other placing agency immediately. The home shall document these incidents in the child's record.

(c) When a child or staff member has a communicable disease, as specified in the table below, the home shall:

1. Obtain a note from a licensed physician treating the child or staff member, confirming the diagnosis and indicating that there is no risk to the child or staff member, or to others before the child or staff member participates in group activities;
2. Isolate the child or staff member posing a risk to others; and

3. Contact the New Jersey State Department of Health and Senior Services, the local health department or other appropriate public health authority when the child or staff member has a reportable disease, as specified in the table below.

TABLE OF COMMUNICABLE DISEASES

Respiratory illnesses	Gastro-intestinal illnesses	Contact illnesses
Chicken pox	Escherichia coli*	Impetigo
German measles*	Giardia lamblia*	Lice
Hemophilus influenzae*	Hepatitis A*	Scabies
Measles*	Salmonella*	Shingles
Meningococcus*	Shigella*	
Mumps*		
Strep throat		
Tuberculosis*		
Whooping cough*		

* Reportable diseases, as specified in N.J.A.C. 10:128-7.3(c)3.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In (c)3, inserted "and Senior Services"; and in "Table of Communicable Diseases", inserted "Escherichia coli*" and "Shingles".

10:128-7.4 Medication other than psychotropic medication

(a) The home shall administer prescription medication to a child only when the medication is authorized by a physician.

(b) The home shall limit the dispensing of non-prescription over-the-counter medication to the following types of medicines, which shall be dispensed in accordance with the recommended dosage, age or weight of the child, as indicated on the label:

1. Antihistamines or decongestants;
2. Acetaminophens (or other age-approved aspirin substitutes);
3. Cough suppressants; and
4. Topical ointments.

(c) The home may permit the dispensing of non-prescription medication other than those listed in (b) above if the child's physician authorizes it in writing.

(d) The home shall maintain a medication log book that shall contain the following information:

1. The name of child receiving medication, whether prescription or non-prescription;
2. The type of medication, dosage, and intervals between dosages;
3. What to do if a dosage is missed;
4. The reason for medication;

5. The date and time medication was administered;
 6. Possible side effects of the medication, if any; and
 7. The signature and title of staff member dispensing medication.
- (e) In supervised transitional living homes, self-medicating children may record this information specified in (d) above.

(f) The home shall encourage the self-administration of medication by properly trained and supervised children whenever their intellectual, emotional and physical capabilities make such practice appropriate and feasible. This shall be documented in each child's treatment plan.

(g) The home shall ensure that the following procedures for storage are followed:

1. Group homes, psychiatric community homes for children, teaching family homes and treatment homes shall keep all prescription and non-prescription drugs in a locked cabinet or container, or, as needed, in a locked box in a refrigerator. The home shall ensure that the keys to the locked cabinets, containers and locked boxes are adequately safeguarded and maintained by staff members and are kept out of the reach of the children;

2. Supervised transitional living homes shall keep prescription drugs in a cabinet or container, or, as needed, in a refrigerator;

3. All outdated stocks and prescriptions no longer in use shall be disposed of safely as follows:

- i. Liquid medication shall be poured down the drain, the bottles rinsed out and then disposed of in the trash; and

- ii. Pills, tablets and capsules shall be flushed down the toilet before the bottle or packet is disposed of in the trash or disposed of in a locked bio-hazard container that is then picked up by a licensed bio-hazard disposal company;

4. The telephone number of the regional poison control center shall be posted at all medication-dispensing stations and by each telephone; and

5. Staff members shall have access to medical supplies at all times.

(h) In situations where the home determines that an adolescent is capable of self-administration of prescription birth control-related supplies, the home may allow the adolescent to maintain prescription birth control-related supplies amongst her personal possessions provided that the home:

1. Provides a locked cabinet or box for storage; and

2. Documents in the treatment plan the rationale and arrangements for the adolescent to maintain prescription birth control-related supplies.

Amended by R.2010 d.109, effective June 21, 2010.

See: 41 N.J.R. 4170(a), 42 N.J.R. 1200(b).

In (g)1, inserted "psychiatric community homes for children," and deleted a comma following "family homes".

10:128-7.5 Psychotropic medication

(a) The home shall not administer medication to children as a punishment, for the convenience of staff members or as a substitute for a treatment program.

(b) The home shall ensure that a pre-treatment clinical assessment, based on behaviors exhibited by the child and observed by staff members, is conducted by a licensed physician before psychotropic medication is prescribed. This pre-treatment clinical assessment shall include at least the following information:

1. A comprehensive drug history, including consideration of the use of all prescription and non-prescription drugs by the child as well as a history of cardiac, liver, renal, central nervous system or other diseases, a history of drug allergies and dietary information;

2. A laboratory work-up, including, but not limited to:

- i. A complete blood count (If the medication prescribed requires routine follow-up blood work, this blood count test shall be administered prior to the child's beginning his or her medication regimen. If the medication prescribed does not require routine follow-up blood work, a new blood count test is not required as long as the child has had a blood count test within one year of admission, unless the physician determines otherwise);

- ii. Urinalysis;

- iii. Blood screening to include an assessment of liver and renal functions, if indicated; and

- iv. Cardiogram (EKG) and electroencephalogram (EEG), as indicated, on children with previous histories of cardiac abnormalities or central nervous system disorders; and

3. A written description of:

- i. The purpose of the medication, the specific behavior(s) of the child to be modified and ways in which progress towards the treatment objectives will be measured;

- ii. The dosage; and

- iii. How possible side effects will be monitored and reported to the physician who prescribed the medication.

(c) Within two weeks after admission, the home shall ensure that all children already receiving psychotropic medication receive a clinical assessment by a physician, as specified in (b) above. The home may extend this two week time period to a maximum of 30 days in which a child receives a clinical assessment, provided that:

1. The home has the necessary amount(s) of medication to administer to the child during any extended time period;

2. The home has consulted with the physician who previously prescribed the medication; and

3. The home documents the above-noted consultation in the child's record.

(d) The home shall not be obligated to comply with (b) above and (e) below, for a pre-treatment clinical assessment and informed consent for psychotropic medication other than

long-acting drugs if the treating physician certifies in the child's clinical record that the child presents a danger to self and/or others.

1. The initial decision to administer emergency medication shall be based on a personal examination of the child by a physician.

2. The initial administration of emergency medication may extend for a maximum period of 72 hours.

3. A physician may authorize the administration of medication for an additional 72 hours upon determination that the continuance of medication on an emergency basis is clinically necessary. This authorization may be given by telephone, provided that it is countersigned by the physician and certified as to the necessity in the child's clinical record within 24 hours. If this medication is then deemed necessary for the child's treatment while in the home, the physician shall complete the pre-treatment clinical assessment as specified in (b) above.

4. The home's staff members shall document that the psychotropic medication was administered in an emergency situation. The documentation shall identify possible side effects to be monitored as described in (b)3iii above.

(e) Before administering psychotropic medication, the home shall obtain written informed consent from the child's parent(s) or legal guardian, and from all children 14 years of age and older unless the home documents that the child lacks the capacity for informed consent. In cases where both a parent and legal guardian exist, the home shall seek written informed consent from the legal guardian.

1. A physician, registered nurse or staff member trained in administering psychotropic medication shall obtain written informed consent.

2. The person requesting written informed consent shall ensure that parents, guardians and children are informed about:

- i. The behavior or symptoms which the medication is intended to modify;
- ii. The dosage; and
- iii. How possible side effects of the medication will be treated.

3. When a request for written informed consent is made by a non-medical staff member, the non-medical staff member shall inform the parent or legal guardian that a physician is available for consultation regarding the proposed medication.

4. The home may obtain verbal informed consent by telephone from the child's parents or legal guardian when the home, physician, registered nurse or staff member is unable to obtain written informed consent, provided that:

i. The home documents the telephone call in the child's record; and

ii. The home obtains the written informed consent from the child's parents or legal guardian within 72 hours of receiving the verbal informed consent.

5. If the home cannot obtain written informed consent or verbal informed consent, the home shall use certified mail, return receipt requested, and shall send the request to the parent's or legal guardian's last known address at least 10 calendar days before the proposed date for the commencement of treatment. The written notice shall specify:

i. The proposed date for beginning of treatment; and

ii. That a failure to respond by the proposed date for the beginning of treatment shall empower the director, after consultation with the Division's case manager or other placing agency to grant consent for the medication.

6. The home shall document all methods for requesting written consent in the child's record.

(f) When a parent, legal guardian or child refuses or revokes consent for medication, the following procedures shall apply:

1. The treating physician or his or her designee shall speak to the child or the parent or both to respond to the concerns about the medication. This person shall explain the child's condition, the reasons for prescribing the medication, the benefits and risks of taking the medication, and the advantages and disadvantages of alternative courses of action;

2. If the child or parent or legal guardian continues to refuse or revokes consent to medication and the physician or his or her designee still believes that medication is a necessary part of the child's treatment plan:

i. The director of the home shall invite the child and parent to attend a meeting with the treatment team to discuss the treating physician's recommendations and the concerns of the child or parent or legal guardian; and

ii. The treatment team shall attempt to formulate a viable treatment plan that is acceptable to the child, parent and legal guardian;

3. If, after the treatment team meeting, the child or parent or legal guardian continues to refuse or revoke consent to medication and the treating physician still believes that medication is a necessary part of the child's treatment plan, the home shall obtain an independent psychiatric review. The psychiatrist conducting this independent assessment shall review the child's clinical record, conduct a personal examination of the child, and provide a written report for the child's treatment team; and

4. If the independent psychiatric review supports the need for the medication and the child or parent or legal guardian continues to refuse or revoke consent to medication, the home may initiate an emergency discharge, as specified in N.J.A.C. 10:128-6.2(b) and 10.5.

(g) The home shall administer psychotropic drugs in the following manner:

1. Psychotropic medication shall be dispensed only by licensed pharmacists and prescriptions shall always be labeled to reflect the following information:

- i. The name and address of the dispensing pharmacy;
- ii. The full name of the pharmacist;
- iii. The full name of the child;
- iv. Instructions for use, including the dosage and frequency;
- v. The prescription file number;
- vi. The dispensing date;
- vii. The prescribing physician's full name;
- viii. The name and strength of the medication;
- ix. The quantity dispensed; and
- x. Any cautionary information appropriate to the particular medication;

2. The home shall encourage the self-administration of medication by properly trained and supervised children whenever their intellectual, emotional, and physical capabilities make such practice appropriate and feasible. The child's capability for self-administration of psychotropic medication shall be documented in the child's treatment plan; and

3. The home shall ensure that psychotropic medication is stored as specified in N.J.A.C. 10:128-7.4(e).

(h) The home shall ensure that all children receiving psychotropic medication are monitored in the following manner:

1. Staff members directly involved with the child shall record:

- i. At least weekly progress towards treatment objectives; and
- ii. Daily observed side effects which are identified in the pre-treatment clinical assessment;

2. Staff members shall notify the prescribing physician immediately, when side effects are observed;

3. The home shall ensure that:

- i. The physician or his or her designee reviews every 30 days the child's status, behavior, well-being

and progress towards treatment objectives, side effects and reason for continuing the medication;

ii. The review is documented in the child's medical record; and

iii. The home informs the child, parents, legal guardian, the Division's case manager or other placing agency about the outcome of the review.

(i) The home shall ensure that any staff member involved in administering psychotropic medication receive the following training:

1. Indications for drug use; and
2. Therapeutic and side effects.

(j) The home shall record all information about a child's psychotropic medication, as specified in N.J.A.C. 10:128-7.4(d), and the home shall ensure that the child's medication record is available to the physician for review when additional medication is prescribed.

Amended by R.1999 d.337, effective October 4, 1999.

See: 31 N.J.R. 1436(a), 31 N.J.R. 2886(a).

In (c), in the introductory text, added "The home may extend this two week time period to a maximum of 30 days in which a child receives a clinical assessment, provided that:", and added 1 to 3.

10:128-7.6 Health education and physical care for children

(a) The home shall ensure that children receive training in personal care, hygiene, and grooming habits.

1. The home shall discuss the physiological changes experienced during adolescence with children in the home.

2. The home shall instruct children about sexually responsible behavior including how to protect themselves from pregnancy and sexually transmitted diseases including AIDS.

3. The home shall instruct all children about the health consequences of smoking tobacco products, smokeless tobacco, alcohol and drug abuse.

(b) The home shall ensure that children are provided with the following:

1. Individual towels and washcloths;
2. Soap and toilet paper; and
3. Hygiene supplies that are age appropriate for their needs, such as toothpaste, mouthwash, deodorant, razors, shaving cream and feminine hygiene articles.

(c) For children unable to provide for their own personal care and hygiene, the home shall bathe and groom them, and provide other personal hygiene services that are necessary to meet their needs.

(d) The home may permit residents to maintain over-the-counter cosmetics, acne preparations and personal hygiene supplies among their personal possessions.

10:128-7.7 Health requirements for staff

(a) Before working for a home, and every three years thereafter, each staff member who comes in contact with the children for the equivalent of eight hours a week or more shall submit a written statement from a licensed physician indicating that he or she is in good health and poses no health risk to persons at the home. Such statement shall be based on a medical examination conducted within the six months immediately preceding such person's association with the home.

(b) Within one year prior to or upon beginning work or having contact with the children for the equivalent of at least eight hours a week at the home, each staff member shall take a Mantoux tuberculin skin test with five TU (tuberculin units) of PPD tuberculin, except that the staff shall have a chest x-ray taken if he or she has had a previous Mantoux tuberculin test. The staff member shall submit to the home written documentation of the results of the test or x-ray.

1. If the Mantoux tuberculin test result is insignificant (zero to nine millimeters (mm) of induration), no further testing shall be required. The Office of Licensing, home or agency may at any time require a staff member to retake the Mantoux tuberculin test, if there is reason to believe or suspect that the staff member may have contracted tuberculosis or if the State Department of Health and Senior Services recommends retesting.

2. If the Mantoux tuberculin skin test result is significant (10 or more mm of induration), the individual shall have a chest x-ray taken. If the chest x-ray shows positive results, the home or agency shall require that the staff member obtain a written statement from a physician certifying that he or she poses no threat of tuberculosis contagion before allowing the staff member to come in contact with the children. The home shall ensure that the staff member adheres to the recommended follow-up testing, if any, by the physician.

3. The home or agency shall prohibit any staff member who fails to submit satisfactory results from having contact with the children at the home until a licensed physician determines that the individual no longer poses a risk to persons in the home.

(c) The home shall maintain on file the results of each staff member's:

1. Mantoux tuberculin test or chest x-ray when indicated; and
2. Physical examination.

(d) The home or agency shall exclude a staff member who appears to be physically, emotionally or mentally impaired or who appears to have a drug-induced or alcohol-induced

condition that would endanger the health, safety and well-being of the children or other staff members. The home or agency shall document the action taken to exclude the staff member and maintain such documentation in the staff member's personnel record. The home or agency shall not permit the staff member to reassume duties until the condition is no longer present.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In (b)1, substituted "Office of Licensing" for "Bureau" and inserted "and Senior Services".

10:128-7.8 Environmental sanitation and staff hygiene

(a) Staff members shall use disposable rubber gloves, which shall be discarded after each use, when coming into contact with blood, vomit, urine, fecal matter or other body secretions.

(b) The home shall ensure that areas in the home, bedding, furniture, carpeting, and clothing, that come into contact with blood, vomit, urine, fecal matter or other body secretions are disinfected with a commercially prepared disinfectant that indicates it kills bacteria, viruses and parasites. This solution shall be used in accordance with label instructions.

(c) The following equipment items or surfaces shall be washed and disinfected after an incident, as specified in (b) above:

1. Toilet seats;
2. Sinks and faucets;
3. Mops that were used in the clean-up;
4. Washcloths, towels and sponges that were used in the clean-up; and
5. Thermometers.

SUBCHAPTER 8. TRANSPORTATION REQUIREMENTS

10:128-8.1 General requirements

(a) The provisions of this subchapter shall apply to any home or agency that provides or arranges transportation for children:

1. To or from their homes or other prearranged sites and the home; or
2. In connection with an activity (such as a field trip) conducted by or through the auspices of the home or agency.

(b) Any home, person or agency, as defined in (a) above, also shall comply with applicable provisions of New Jersey Motor Vehicle Commission law, pursuant to N.J.S.A. 39:1-1

et seq. and rules promulgated thereunder, as specified in N.J.A.C. 13.

(c) The home or agency may authorize staff members to utilize their own private passenger vehicles to transport children from the home, to and from scheduled field trips or to transport children from the home to a hospital, clinic or office for medical treatment. However, staff members may be authorized to do so only if:

1. The vehicle has a capacity of nine or fewer persons;
2. The driver possesses a valid automobile driver's license issued by the New Jersey Motor Vehicle Commission, hereinafter referred to as the MVC;
3. The vehicle has a valid motor vehicle inspection sticker issued by the MVC;
4. The vehicle owner possesses liability insurance at least at the minimum amounts required by the New Jersey State insurance law, pursuant to N.J.S.A. 17:28-1.1a;
5. The home maintains transportation records on every vehicle utilized for the above, as specified in N.J.A.C. 10:128-8.4; and
6. The home or agency ensures that the staff members apply the safety practices, as specified in N.J.A.C. 10:128-8.1(d) and (e).

(d) The home or agency shall ensure that all vehicles used to transport children:

1. Are maintained in clean and safe condition;
2. Have a maximum seating capacity that does not exceed the number of seat belts;
3. Have seats and back rests securely fastened;
4. Have all seats that are facing sideways or backwards bolted down;
5. Have seats upholstered with springs or foam rubber;
6. Have an operable heater capable of maintaining a temperature of 50 degrees Fahrenheit; and
7. Are equipped with:
 - i. A triangular portable red reflector device;
 - ii. All weather radials or snow tires from November 15 through April 1 (for New Jersey-based homes only); and
 - iii. A removable, moisture-free and dust-proof first-aid kit, which shall be located in the vehicle.

(e) The home or agency shall ensure that the following safety practices are followed:

1. A staff person is always present when an adolescent, child or infant is in the vehicle;

2. All passengers who are over one and one-half years of age are secured in an operable seat belt or car seat while the vehicle is in motion;

3. All passengers, who are one and one-half years of age or less are secured in car seats (child passenger restraint systems) that meet Federal motor vehicle safety standards in accordance with provisions of the New Jersey Motor Vehicles Law, pursuant to N.J.S.A. 39:3-76.2a;

4. All adolescents, children and infants enter and exit from the curbside of the vehicle;

5. Children are not permitted to ride in the back or beds of trucks; and

6. Children and staff members are not permitted to smoke tobacco products or use smokeless tobacco in the vehicle.

(f) When transporting more than six children below six years of age the home or agency shall ensure that one adult in addition to the driver remains in the vehicle.

(g) When transporting more than four infants without their adolescent mothers, the home shall ensure that one adult in addition to the driver remains in the vehicle.

(h) The home or agency shall maintain transportation records, as specified in N.J.A.C. 10:128-8.4.

(i) If the home utilizes a Type I School Bus, Type II School Bus or a Type S School Vehicle, the home shall:

1. Meet all appropriate Motor Vehicle Commission (MVC) rules, Department of Education rules and/or Department of Children and Families rules; and

2. Ensure that the drivers of such vehicles possess a valid Commercial Driver License (CDL) in at least Class B or Class C, with passenger endorsement, as required by the MVC for the gross vehicle weight rating (GVWR) of the vehicle or an out-of-State equivalent license, as approved by the MVC.

(j) The home shall limit travel in program vehicles including cars, vans and wagon trains by:

1. Scheduling at least one full day of rest after every four days of travel;

2. Ensuring that no staff member drives for more than four hours without a 30-minute break; and

3. Prohibiting driving between 11:00 P.M. and 6:00 A.M., unless it is necessary to complete an emergency evacuation.

Amended by R.1996 d.118, effective March 4, 1996.

See: 27 N.J.R. 4266(a), 28 N.J.R. 1379(c).

In (e) added prohibition of smoking.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In (b), substituted "Motor Vehicle Commission" for "Division of Motor Vehicles" and "rules" for "regulations"; in (c)1, substituted "nine"

for "eight"; in (c)2, substituted "Motor Vehicle Commission" for "Division of Motor Vehicles" and "MVC" for "DMV"; in (c)3, substituted "the MVC" for "DMV"; in the introductory paragraph of (i), substituted "S" for "II"; in (i)1, substituted "Motor Vehicle Commission (MVC)" for "Division of Motor Vehicles (DMV)" and "Children and Families" for "Human Services"; and in (i)2, substituted "MVC" for "DMV" two times.

10:128-8.2 Vehicle insurance requirements

(a) The home or agency shall maintain vehicle liability insurance for bodily injury or death in minimum amounts of \$300,000 per person and \$500,000 per accident for every vehicle that is:

1. Owned or leased by the home or agency; and
2. Utilized to transport children residing in the home.

(b) If the home or agency contracts transportation services, the home shall ensure that the company maintains insurance coverage as identified in (a) above.

10:128-8.3 Additional requirements for transporting physically handicapped, non-ambulatory children

(a) Homes or agencies providing or arranging for transportation services for physically handicapped children who are non-ambulatory shall have a vehicle that has a ramp device or hydraulic lift with a lift minimum pay load of 600 pounds. Any ramp device that is installed shall:

1. Have a non-skid surface;
2. Be securely stored and protected from the elements when not in use; and
3. Have at least three feet of length for each foot of incline.

(b) If wheelchairs are used, the home shall ensure that:

1. All wheelchairs are securely fastened and face forward;
2. All wheelchair passengers are secured with a seat belt;
3. Arrangements for wheelchairs do not impede access to emergency and exit doors; and
4. Any aisle leading from a wheelchair position to the emergency or exit door has a minimum width of 30 inches.

10:128-8.4 Record requirements

(a) The home or agency shall maintain on file the following:

1. A photostatic copy of the driver's license of each person whom the home or agency has authorized to transport children;

2. A photostatic copy of the registration of each vehicle used to transport children;

3. A copy of the insurance policy for every vehicle owned, leased, contracted or utilized by the home or agency; and

4. The name and address of the lessor or contractor furnishing a vehicle to the home or agency, if relevant.

(b) The home or agency shall maintain transportation maintenance records for all vehicles used by homes that serve between six and 12 children for the transportation of children, including repair and inspection records, and shall retain them for the lifetime of the vehicles.

(c) The home or agency shall maintain on file a record of trips other than routine school-related, work-related or recreation trips where the home's vehicles are used for transporting children, that documents:

1. The date and time of the trip and staff member(s) who drove;
2. Any unusual incidents of the day that occurred on the trip; and
3. The names of the children who attend the trip.

(d) The requirements in (c) above shall not apply to normal daily transportation activity, such as routine trips to stores, school, work, medical or counseling appointments, leisure or recreation activities or other local activities, except that any unusual or serious incident that occurs on such a routine trip shall be recorded.

Amended by R.1999 d.337, effective October 4, 1999.

See: 31 N.J.R. 1436(a), 31 N.J.R. 2886(a).

In (b), substituted "homes that serve between six and 12 children" for "the homes", rewrote (c), and added (d).

SUBCHAPTER 9. ADVENTURE ACTIVITIES

10:128-9.1 General requirements

(a) The requirements of this subchapter shall apply to any home or any agency that provides or contracts for adventure activities that may include, but are not limited to:

1. Biking;
2. Canoeing, kayaking and tubing;
3. Caving;
4. Hiking;
5. Horseback riding;
6. Ropes and rock climbing;
7. Sailing and boating;

8. Snow skiing, cross country skiing, snow boarding and snow tubing;

9. Solos;

10. Swimming;

11. Water skiing; and

12. Camping.

(b) The requirements of this subchapter shall not apply to commercial recreational activities available to the general public on a walk-in basis, except as specified in (l) and (m) below and that require no special preparation or skill. However, the home shall ensure that any commercial recreational activity it uses for children that involves canoeing, kayaking, tubing, sailing, boating, or water skiing, complies with the requirements, as specified at N.J.A.C. 10:128-9.5, 9.10 or 9.14.

(c) All homes whose program consists primarily of adventure activities shall maintain on file a written statement of purpose that shall identify the following:

1. The home's philosophy, goals, and objectives;

2. Characteristics of the children to be served;

3. Types of adventure activities that a child may participate in and other treatment services provided to the children, including those provided directly by the home and those services that may be provided in cooperation with community agencies or outside individuals;

4. Procedures for implementing those services; and

5. Criteria for successful completion of the program.

(d) For homes whose program consists primarily of adventure activities, the home shall describe to the child and the parents prior to admission to the facility, the types of adventure activities in which the child will be asked to participate. This discussion shall include:

1. An explanation of the anticipated benefits of the activity;

2. A description of the potential risks of the activity, as well as an explanation of how the facility will take precautions to minimize risks; and

3. A clear statement that no child will be forced to do an adventure activity against his or her will.

(e) For homes whose program does not consist primarily of adventure activities, the home shall discuss with the child and his or her parents the information specified above before the child is scheduled to participate in the activity. The home shall ensure that any adventure activity it uses from an outside provider complies with all applicable requirements of the particular activity as specified in this subchapter.

(f) The home shall document that a staff member discussed the information specified in (d) and (e) above in the child's record.

(g) The home shall maintain a list of all children and staff members who participate in an adventure activity that occurs away from the grounds of the home in the event staff members or children need to be contacted due to an emergency or to provide immediate information to the Division, Office of Licensing and parents if there is an emergency that occurs during the adventure activity.

(h) The home shall have a fully-stocked first aid kit that is activity-appropriate and available whenever an activity occurs on-grounds or off-grounds.

(i) The home shall ensure that all children and staff members receive instruction about the value of the activity and necessary safety precautions, such as how to prevent dehydration, frostbite, heat exhaustion, hyperthermia, hypothermia, poisoning from plants and animals, sun poisoning, snow blindness, or drowning, as appropriate to the nature of the activity.

(j) The home shall not force or coerce a child to participate in any adventure activity, but may require a child to observe an adventure activity to assist the child in getting over his or her fears of a particular activity or to foster an interest in participating in a particular activity.

(k) The home shall ensure that staff members discuss the following topics with all the children who have participated in an adventure activity:

1. How they felt during and after the activity; and

2. What they learned about themselves as individuals and members of a group after completing the activity.

(l) The home shall not engage in any activities requiring or involving firearms and cross bows nor permit staff to have firearms or cross bows.

(m) The home shall prohibit airborne activities including, but not limited to, bungee jumping, hang gliding, para-sailing and parachuting.

(n) The home shall not permit children to use power tools unless the children wear protective safety glasses and work shoes or boots, and are under the direct supervision of staff members.

(o) The home shall not allow children or staff to participate in manufacturer's tests of new adventure equipment.

(p) For all water activities and outdoor trips away from the grounds or campsites, the home shall modify or cancel the activity if there is a threat of a severe storm or other environmental hazard such as fires, polluted water, threat of flash floods, hurricanes or avalanches.

(q) The home shall not engage in water activities where the water is known to have hazardous wastes, such as waters that have been contaminated by toxins, sewage or chemicals.

(r) The home shall ensure that all water in streams, ponds, lakes and rivers that is used for drinking, food preparation and dishwashing is first boiled, filtered or purified with iodine or tablets specifically designed to purify water.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In (g), substituted "Office of Licensing" for "Bureau".

10:128-9.2 Plans for emergency evacuation and search and rescue

(a) The home shall develop and maintain on file at the home or home's administrative office a written plan detailing procedures for emergency evacuation from any site used for adventure activities that is in a remote area or that is away from ordinary means of communication. This plan shall include, but not be limited to, the following:

1. Guidelines on how to determine dangerous weather conditions, such as storms, including lightning, tornadoes and hurricanes, and life-threatening environmental hazards, such as fires, polluted waters, flash floods or avalanches;
2. Guidelines on how to determine whether a victim can walk out on his or her own power;
3. Guidelines for constructing a litter to carry out a child or staff member who cannot walk;
4. Procedures for evacuating all children and staff members;
5. Name, address and telephone number of local rescue squads, law enforcement agencies and hospitals, and guidelines for contacting them; and
6. Guidelines to determine whether the home needs a helicopter or other aircraft to assist with the emergency evacuation, if available.

(b) The home shall develop and maintain on file at the home or home's administrative office a written plan detailing procedures for search and rescue for each activity that takes place outside the home's grounds. This plan shall include, but not be limited to, the following:

1. Guidelines on how to conduct a search to determine that a child is missing, including a time limit for ending the search and starting a search beyond the area being used for the adventure activity;
2. Procedures for completing a full description of the missing person;
3. Procedures detailing how to deploy staff and children to scout specific areas;
4. Procedures detailing how to deploy a rescue team that shall include a staff member to seek outside help;

5. Policy that indicates when to call law enforcement agencies and telephone numbers of local law enforcement officials; and

6. Procedures for reviewing the incident with the person(s) who conducted the search.

(c) For adventure activities occurring outside the home, the home shall ensure that each staff member supervising an adventure activity:

1. Reviews the plan detailing the procedures for emergency evacuation;
2. Reviews the plan detailing the procedures for search and rescue; and
3. Brings a copy of these plans on each adventure activity.

(d) The director of the home or his or her designee shall document and maintain on file at the home or home's administrative office that all emergency evacuation and search and rescue missions were reviewed within five days of the incident.

(e) For adventure activities occurring outside the home's grounds, the home shall ensure that at least one staff member has money or credit cards to handle emergencies. The home shall equip a staff member with a cell phone.

10:128-9.3 Reporting requirements

(a) The home shall report all fatalities and all accidents requiring hospitalization or medical care by a physician to the Office of Licensing as soon as staff have access to a telephone, as specified in N.J.A.C. 10:128-3.7(b).

(b) The home or agency shall provide written notification within 10 working days to the Office of Licensing and the child's parents and maintain on file reports of all incidents and accidents requiring hospitalization or medical care by a physician, and incidents where an accident or fatality was avoided ("near miss").

1. This documentation shall specify:
 - i. The factors leading to the incident;
 - ii. The nature of the fatality, accident or "near miss";
 - iii. How staff members handled the incident; and
 - iv. Recommendations for avoiding such incidents in the future.

(c) The home shall submit a written description to the Office of Licensing and permit an on-site inspection prior to its implementation of the following high risk adventure activities:

1. Caving;

2. Ropes and rock climbing; and
3. Solo camping.

(d) The written description required in (c) above shall include, but not be limited to, the following information:

1. The types of equipment that will be utilized;
2. The qualifications of the staff who will be involved in implementing the adventure activity; and
3. The policies and procedures to ensure the safety of the children and staff during the adventure activity.

(e) The home shall notify the Office of Licensing in writing prior to the implementation of any adventure activity that is not specified in this subchapter and that is considered to be high risk.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

Substituted "Office of Licensing" for "Bureau" throughout.

10:128-9.4 Biking

(a) Prior to implementing a planned biking trip that is off the grounds of the home, the home shall:

1. Obtain the necessary permits to ride on roads or highways from host states and local governments; and
2. Maintain on file at the home or the home's administrative office copies of these permits.

(b) The home shall prohibit all biking from taking place:

1. In inclement weather;
2. On roads with heavy traffic unless there is a wide shoulder;
3. After sunset and before sunrise; and
4. On unmarked, ungroomed or dangerous trails and in prohibited areas. The home may permit a child to participate in mountain biking when the following conditions have been met:
 - i. The child has been provided with a mountain bike that has been designed/manufactured for riding on trails;
 - ii. The child has been provided with a helmet designed for mountain biking, knee pads, gloves, protective goggles/eye wear and elbow pads;
 - iii. A staff member, volunteer or contract provider who is experienced in mountain biking accompanies the child; and
 - iv. The child has demonstrated an ability to participate in mountain bike riding.

(c) The home shall ensure that all persons engaged in biking:

1. Wear helmets that are approved by the American National Standards Institute (ANSI) or the Snell Memorial Fund;

2. Ride in single file on the right side of the road;
3. Obey all traffic signs and signals;
4. Yield to traffic;
5. Are led by a staff person, with another staff person riding at the end of the group; and
6. Take a 30-minute break every two hours, or sooner when a child expresses a need for rest or when a child is injured or ill. The break may be less than 30 minutes in duration if all staff members and children agree to take a shorter break.

(d) The home shall ensure that the following equipment is brought on a biking trip:

1. A road map;
2. A bike repair kit; and
3. A water bottle for each child and staff member, unless the itinerary provides access to potable water.

(e) The home shall ensure that all bikes are locked at night to deter children from running away or having the bikes stolen.

(f) Before starting a trip and every day of the trip thereafter, the home shall ensure that all bikes have:

1. Brakes that are in good working order;
2. Tires with treads and sufficient air;
3. Handlebars that are no more than 16 inches above the seat so that the biker can sit comfortably;
4. Pedals with treads that are a distance of 3 1/2 inches or more from the front wheel or fender; and
5. Reflectors in the front, rear, pedals and spokes.

10:128-9.5 Canoeing, kayaking and tubing

(a) The home shall ensure that all staff members and children:

1. Wear personal flotation devices (PFD) (life jackets) rated Class I, II, or III by the U.S. Coast Guard. Staff members who have a valid lifesaving or lifeguarding certificate may choose not to wear a PFD; and
2. Never stand up in the canoe, kayak or tube, unless the children are in a confined area for staff supervised activities.

(b) The home shall ensure that life jackets are not used for seating or bedding.

(c) The home shall ensure that:

1. At least one staff member is present who has a valid lifesaving or lifeguarding certificate issued from an organization that is recognized by the New Jersey State Department of Health and Senior Services or other appropriate authority when there are 15 or fewer children;

2. Children and staff members wear footwear that is secured to their feet, unless the activity occurs on a lake with a sandy bottom and no rocks; and

3. All children and staff members stay away from debris and any trees that have fallen across the river and carry the canoe, kayak or tube along the riverbank past the debris or fallen tree, if necessary.

(d) The home shall prohibit canoeing, kayaking, and tubing:

1. At night;
2. In the open ocean; and
3. During electrical storms.

(e) The home shall ensure that the following equipment is brought along:

1. One spare life jacket for every 12 persons; and
2. Throw lines.

(f) For canoeing and kayaking, the home shall ensure that:

1. Each canoe and kayak has flotation at either end;
2. Each canoe and kayak has an extra paddle;
3. All equipment is secured;
4. Spray covers, if used, release promptly; and

5. The water temperature is 55 degrees Fahrenheit or higher unless a wet suit is provided to each child and staff member.

(g) For canoe or kayak trips in water with rapids rated Class III and IV on the International Scale of River Difficulty (hereafter referred to as the ISRD) developed by the American Canoe Association, the home shall ensure that:

1. All children and staff have completed at least three trips on water with rapids rated as Class I or II by the ISRD;

2. All children and staff wear helmets that are tied under the chin; and

3. For trips in water with rapids rated Class IV, all staff and children can do an Eskimo roll, as defined by the American Canoe Association.

(h) The home shall not take children on water with rapids rated Class V or VI on the ISRD.

(i) For tubing, the home shall prohibit trips when the water is:

1. Less than 55 degrees Fahrenheit; and/or
2. Rated above Class I on the ISRD.

10:128-9.6 Caving

(a) The home shall ensure that:

1. No child or staff member who is claustrophobic is taken on a caving trip;

2. All children and staff members wear helmets that are tied under the chin at all times;

3. At least three-quarters of the children on the caving trip are 12 years of age or older;

4. Children wear gloves if crawling is required;

5. Children have had at least two caving expeditions in horizontal caves before going into a vertical cave;

6. Children do not climb in vertical caves by hand-over-hand rope methods; and

7. Children and staff members do not run or jump in the cave.

(b) The home shall ensure that at least one staff member on the trip:

1. Is able to contact a local emergency rescue squad or the Cave Rescue Communications Network;

2. Is familiar with the terrain of the cave;

3. Carries a map of the cave, if available; and

4. Is able to assist a child or staff member who becomes claustrophobic.

(c) For non-commercial caves, the home shall obtain written permission to enter the cave from the owner or public authority.

(d) The home shall ensure that the following equipment is brought along on all non-commercial caving expeditions:

1. A space blanket;

2. A whistle;

3. Three sources of light, one of which is either carbide, electric or a miner's headlamp;

4. Waterproof matches;

5. Potable water;

6. Climbing rope;

7. Emergency food; and

8. Spare clothes.

10:128-9.7 Hiking

(a) The requirements of this section apply for all walks or hiking expeditions in remote areas that are away from ordinary means of communications.

(b) The home shall ensure that:

1. At least two staff persons carry and know how to use a compass;

2. A first aid kit is brought along that includes treatment for snake, animal and insect bites, and treatment for the ingestion of or contact with poisonous plants;

3. All children and staff wear footwear appropriate for hiking; and

4. No child or staff member carries a pack weighting more than 45 percent of his or her body weight. Each staff member and child shall have the following equipment in his or her pack:

- i. A space blanket, ensolite pad or plastic tarp;
- ii. A whistle;
- iii. A flashlight;
- iv. Emergency food; and
- v. Spare clothes.

(c) The home shall ensure that each child and staff member has access to potable water.

10:128-9.8 Horseback riding

(a) The home shall ensure that all staff members and children who go horseback riding wear shoes or boots that have heels, long trousers, and approved protective head gear that is fastened under the chin.

(b) The home shall ensure that:

1. The horse is tame and can be ridden by a novice rider;
2. Two or more persons do not ride a horse at the same time;
3. The time a horse spends in ring riding is limited to a total of six hours a day, with no more than three hours of riding without at least a 15-minute break; and
4. The time a horse spends in trail riding is limited to a total of eight hours a day, with no more than four hours of riding without at least a 15-minute break.

(c) The home or agency shall provide written documentation for horses that they own that the horses are:

1. Checked daily, including the mouth;
2. Checked daily for cracked feet and reshod as necessary;
3. Fed at least once a day or according to a specified feeding schedule; and
4. Given water at least once a day or according to a specified watering schedule.

(d) The home shall retain on file at the barn housing the horses or at the home or the home's administrative office documentation of compliance with the requirements specified in (c) above.

(e) Homes that rent horses for horseback riding shall verify that the stables meet all the requirements specified in (c) above prior to utilizing their services.

10:128-9.9 Ropes initiatives and rock climbing

(a) The home shall ensure that staff members:

1. State the objectives of the ropes course or climbing trip to the children;
2. Emphasize the importance of safety procedures of each initiative to the children before starting the activity;
3. Allow each child to decide whether or not to participate in a ropes course;
4. Inspect the ropes before each group of children uses them; and
5. Demonstrate effective observation ("spotting") and how one is secured by a rope ("belayed").

(b) The home shall prohibit:

1. Smoking near the ropes;
2. The wearing of jewelry, loose clothing and hair, and eyeglasses that are not fastened;
3. Unsafe practices including, but not limited to, solo climbing, hanging upside down, diving head first, throwing people or over-straining; and
4. The activity known as the "electric fence", in which a rope is attached to trees or poles and suspended four feet from the ground in a circle, and children standing inside the rope are expected to get out without touching the rope or passing under the rope.

(c) The home shall ensure that persons on a high rope or rock climbing activity:

1. Are individually secured with an approved rope, or "belayed"; and
2. Wear helmets that are fastened under the chin.

(d) The facility shall document and maintain on file at the site of the ropes course or at the home or the home's administrative office that all ropes are:

1. Approved by the Union International Alpine Association (UIAA);
2. Visually inspected by the staff before use and discarded if the rope appears frayed or damaged; and
3. Logged for use and retired at four years from the date of purchase or after the rope has sustained the number of falls that the manufacturer's label indicates that the rope can sustain.

(e) The home shall ensure that all carbiners that are used to secure belay ropes are constructed of steel or a metal of equal strength and hardness, and have a locking gate.

10:128-9.10 Sailing and boating

(a) The home shall ensure that all sailing vessels and motor boats used by children and staff comply with all applicable Federal, State and local laws.

(b) The home shall develop and have on file at the home or home's administrative office a plan for each boating activity specifying:

1. A description of boat and engine, if relevant;
2. The names of all persons on board;
3. The survival equipment on board; and
4. The itinerary and phone number of the closest Coast Guard station.

(c) The home shall ensure that at least one staff person has completed a boating course offered by the U.S. Coast Guard Auxiliary, U.S. Power Squad, American Red Cross, or the equivalent.

(d) The home shall ensure that the following non-commercial boats have a current decal indicating a satisfactory rating on a courtesy inspection by the U.S. Coast Guard Auxiliary:

1. For motor boats, 12 feet to 65 feet; and
2. For sailboats, 16 feet to 65 feet.

(e) For sailboats and motor boats less than 16 feet, the home shall ensure that there is a throw line and a Personal Flotation Device (PFD) rated Class I, Class II or III by the U.S. Coast Guard on board for every passenger.

(f) The home shall prohibit sailing and boating outside U.S. coastal waters.

(g) The home shall ensure that all marine heads (toilets) are certified by the U.S. Coast Guard of a type authorized for the area where the boating will occur.

(h) The survival equipment on board shall be Coast Guard approved and shall include the following:

1. A personal flotation device (PFD) for each passenger as specified in (e) above;
2. Fire extinguishers of the proper type and size for the boat being used;
3. A whistle, bell or horn;
4. Signal flares or a distress lantern;
5. An anchor and line;
6. Oars/paddles;
7. A manual pump or hand bailer;
8. Navigation lights;
9. A mooring line;

10. Life rings;
11. Flashlights;
12. Drinking water and emergency food;
13. A tool kit;
14. Navigation charts; and
15. An appropriate size first aid kit.

(i) The home shall not permit children to use jet skis.

10:128-9.11 Snow skiing, cross country skiing, snow boarding and snow tubing

(a) The home shall not permit skiing in areas known to have avalanches or in temperatures below zero degrees Fahrenheit.

(b) The home shall ensure that staff:

1. Are familiar with the terrain; and
2. Carry a ski repair kit when skiing in remote areas.

(c) The home shall ensure that all children and staff members use ski equipment that is appropriate for each person's height, weight and ability and that bindings are secure.

(d) The home shall ensure that all children and staff wear appropriate clothing, gloves and eye protection.

(e) The home shall ensure that all down hill ski, snow boarding and snow tubing runs and trails are marked, opened and groomed and do not present dangerous conditions.

(f) The home shall ensure that all cross country skiing trails are appropriately rated, or in an area such as an open field, that does not present any dangerous conditions, and are able to be used by each child based upon his or her cross country skiing competency.

10:128-9.12 Solo (solitary activities)

(a) The home shall ensure that children freely consent to do a solo, defined as a camping experience where a child is living away from direct supervision of staff, and shall not coerce or force the children to do a solo.

(b) The home shall:

1. Limit solos to a maximum 72 hours;
2. Ensure that children know the boundaries of the solo activity; and
3. Prohibit children from making fires and from rock climbing.

(c) The home shall ensure that children receive the following equipment:

1. A whistle to signal for help;
2. Shelter such as a tent or tarpaulin;
3. Three liters of water a day;
4. Food sufficient for three meals a day;
5. A flashlight;
6. At least one change of clothes appropriate to the weather; and
7. A first aid kit.

(d) The home shall ensure that staff:

1. Communicate with the child at least twice a day by whistle, radio or other means to check on his or her safety and document all contacts in the shift log; and
2. Are available to provide face-to-face contact and care immediately if a child requests attention from staff.

(e) The home shall not allow children to do a solo in areas with bodies of water higher than four feet or in areas having rivers or streams with a strong water current.

10:128-9.13 Swimming

(a) A home using off-grounds or on-grounds swimming facilities that are not supervised public recreational bathing facilities shall ensure that at least one staff member has a valid lifesaving or lifeguarding certificate issued from an organization that is recognized by the New Jersey State Department of Health and Senior Services or out-of-State health department or other appropriate authority when 15 or fewer children are present, and two staff members have a valid lifesaving or lifeguarding certificate when 16 or more children are present.

1. Whenever 16 or more children are swimming, the home shall ensure that at least one lifeguard remains out of the water and is located in a position where he or she can observe all swimmers.

2. No staff member shall assume lifeguarding responsibility for more than three hours without a break.

(b) The home shall prohibit swimming:

1. At night time;
2. Under docks; and
3. When the water temperature is less than 55 degrees Fahrenheit.

(c) The home shall test each child's swimming ability. If a child cannot swim 100 feet, tread water for three minutes and swim under water for 10 feet, the facility shall ensure that the child wears a life jacket whenever he or she is in water over four-and-one-half feet deep, unless under direct supervision for swimming instruction. The home shall ensure that the life jacket:

1. Indicates a Class I, Class II, or Class III Personal Flotation Device (PFD) rating by the U.S. Coast Guard; and

2. Is never used as a cushion for sitting or kneeling at any time.

(d) The home shall provide staff members with the following equipment:

1. A whistle; and
2. A ring buoy with rope.

10:128-9.14 Water skiing

(a) The home shall ensure that:

1. No water skiing occurs after sunset or before sunrise;

2. The water skier wears a Personal Flotation Device (PFD) rated class II or III by the U.S. Coast Guard;

3. A staff member or responsible child other than the boat driver sits in the boat and acts as an observer of the water skier;

4. There is one staff member for every six additional children on the dock or on land; and

5. The motor boat used for water skiing meets all of the regulations as specified in N.J.A.C. 10:128-9.10.

10:128-9.15 Camping

(a) The home shall obtain and maintain on file at the home or home's administrative office all permits, certificates or licenses that are required by the host State and local governments before using a campsite.

(b) The home shall ensure that all campsites it utilizes are located in areas that are well-drained and free of observable seepage.

(c) The home shall ensure that all tents, teepees and canvas on covered wagons are:

1. Made of fire retardant material; and
2. Made of waterproof material that have seams that are coated to resist water.

(d) The home shall ensure that cabins, tents, teepees and covered wagons when used for sleeping provide:

1. At least 20 square feet per person;
2. At least 30 inches between beds and sleeping bags;
3. At least six feet between heads of sleepers; and
4. Cross ventilation.

(e) The home may follow the manufacturer's tent capacity instead of the requirements identified in (d) above when children and staff utilize a tent(s) for three days or less.

(f) The home shall prohibit smoking of tobacco products and cooking in all tents, teepees, and covered wagons whether used for sleeping quarters or for purposes other than sleeping.

(g) The home shall ensure that male and female children do not sleep in the same quarters.

(h) If the home uses sleeping bags instead of beds or bed linens, the home shall ensure that sleeping bags are:

1. Flame resistant;
2. Aired at least every five days and cleaned at least once a month and more often if necessary;
3. Sufficient for the temperatures where the sleeping bags will be used, as indicated by the manufacturer's label; and
4. Placed on a mat or padding when the air temperature at night is below 35 degrees Fahrenheit.

(i) If the home uses bunk beds, the home shall ensure that bunk beds:

1. Have railings on top bunks that are no more than 3½ inches from the top of the bed frame;
2. Have mattresses that are at least five inches from the top of the railing; and
3. Are limited to two in height.

(j) If the home uses latrines instead of toilets, the home shall ensure that all latrines:

1. Provide for privacy;
2. Are dug at least six feet deep; and
3. Are at least 100 feet from the campsite and bodies of water.

(k) The home shall ensure that there is one latrine for every 10 persons.

(l) Homes using cabins, tents or teepees for over seven continuous days shall ensure that:

1. There is one shower or bathtub for every 10 children and staff members;
2. The children have access to bathing facilities every day during normal waking hours; and
3. The children have privacy when bathing.

(m) Homes that camp overnight for seven or fewer continuous days shall ensure that children have access to bathing facilities or are provided with other means of maintaining personal hygiene. These may include, but are not limited to, wet towels and dry shampoo.

(n) Whenever regular plumbing facilities are not available for bathing or washing, the home shall:

1. Ensure that all washing is done with biodegradable non-detergent soap; and
2. Prohibit all washing and bathing in lakes, rivers and streams.

(o) The home shall ensure that children have reasonable access to laundry facilities to wash clothing, sleeping bags and bed linens during camping trips lasting more than five days in duration.

10:128-9.16 Requirements for wagon trains

(a) The home shall ensure that the canvas and wheels are in good repair.

(b) If horses are used, the home shall ensure that the requirements regarding the care of horses, as specified in N.J.A.C. 10:128-9.8 are met.

(c) If animals other than horses are used, the home shall:

1. Limit travel to 10 hours a day;
2. Water the animals at least every four hours;
3. Develop and maintain on file a feed plan; and
4. Check the animals daily for broken hooves and bones.

10:128-9.17 Health and sanitary practices

(a) The home shall ensure that each child has a health examination performed by a licensed physician that documents:

1. That the child can perform each type of adventure activity that he or she will be asked to do;
2. Receipt of a tetanus shot;
3. Notation of asthma, allergies or dietary needs; and
4. Notation of whether the child is on medication that would require the child to take precautions while he or she is in the sun and/or to avoid using sunscreen if indicated in the medication warning and/or to take other special precautions.

(b) Within 30 days of a child's participation in an adventure activity, the home shall document in writing and maintain on file in the child's record that the child's current health status allows the child to engage in the specified adventure activity.

(c) The home shall develop and give to each staff member a written policy for treating:

1. Snake, animal and insect bites; and
2. Ingestion of, or contact with poisonous plants.

(d) The home shall ensure that all perishable food is refrigerated at a temperature of 45 degrees Fahrenheit or lower.

(e) The home shall ensure that all non-disposable utensils used for eating and preparing food are:

1. Not used by another person before rewashing;
2. Washed and rinsed in water that is at least 180 degrees Fahrenheit or water that has been sanitized chemically; and
3. Free of cracks.

(f) The home shall ensure that all water in streams and lakes that is used for drinking, food preparation and dishwashing is boiled, filtered or purified with iodine or tablets specifically designed to purify water.

(g) The home shall corral or tie the animals other than household pets in an area located at least 50 feet from any area where food is prepared, cooked or served.

(h) The home shall:

1. Use fly repellants as necessary;
2. Remove manure daily to a distance of at least 100 feet from the campsite, cooking and dining areas; and
3. Dispose of animal wastes through burial in a sanitary manner.

10:128-9.18 Qualifications for staff supervising adventure activities

(a) The home shall comply with the applicable rules specifying disclosure of criminal convictions, Criminal History Record Information and Child Abuse Record Information background checks, academic credentials, and years of experience for the director, social service staff, and direct child care staff as specified in N.J.A.C. 10:128-5.1 and 5.2.

(b) For all water activities, ropes initiatives and rock climbing, the home shall ensure that at least one staff person is certified by an organization with recognized expertise in the applicable activity.

(c) For land activities other than ropes initiatives and rock climbing, the home shall ensure that at least one staff member:

1. Is certified; or
2. Has had at least one year's experience and demonstrated skill in the adventure activity for which he or she will be supervising children.

(d) The home shall ensure that for each adventure activity there is at least one staff member present who is currently certified in first aid and cardiopulmonary resuscitation (CPR) as defined by a recognized health organization (such as the American Red Cross) when 15 or fewer children are present.

(e) The home shall ensure that for each adventure activity there are at least two staff members present who are currently certified in first aid and CPR when there are 16 or more children present.

Amended by R.2006 d.433, effective December 18, 2006.
See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In (a), substituted "the applicable rules specifying disclosure of criminal convictions, Criminal History Record Information and Child Abuse Record Information background checks" for "relevant State regulations specifying criminal disclosure or fingerprinting".

10:128-9.19 Staff to child ratio requirements

(a) When children are engaged in an adventure activity, the home shall ensure that:

1. There are at least two staff members present when two or more children are engaged in an adventure activity; and
2. If more than 12 children are involved, there is one staff member for every additional six children.

(b) For purposes of determining whether a required staff ratio is met, only those staff members who are providing direct care and supervision of the children shall be counted. These staff members may be regular staff members or adventure staff members.

10:128-9.20 Special requirements for communication and visiting

(a) The requirements in this section apply only to homes that:

1. Are located in areas that are remote or away from ordinary means of communication; or
2. Use travel, including, but not limited to, backpacking, sailing or a wagon train.

(b) The home shall permit family members, the Division's case manager or other placing agency to visit the child where he or she is currently living and shall provide comfortable inside space when the weather prohibits outside visitation.

1. The home shall provide privacy for all visits between the child, the Division's case manager or other placing agency.
2. The home shall provide privacy for family visits unless the home documents in the child's record that the child would be at risk during a private family visit.

(c) The home shall develop and maintain on file in the home or home's administrative office plans and procedures to ensure that a child:

1. Can receive an emergency message from his or her family and from the Division's case manager or other placing agency within 24 hours of the family member's or the Division's case manager or other placing agency's contacting the home or home's administrative office;

2. Is given necessary postage to send mail to family members, the Division's case manager or other placing agency; and

3. Can receive mail from his or her family and the Division's case manager or other placing agency on a weekly basis.

(d) The home shall permit the child to make private telephone calls to the Division's case manager or other placing agency, upon request.

(e) The home shall permit children to make a free telephone call to a family member at least every other week.

1. The home may impose a time limit of 15 minutes on telephone calls made by children to family members.

2. The home may require children to telephone family members at off-peak times.

3. The home shall not use electronic devices to monitor children's telephone calls to family members, but may observe their reaction during the telephone call.

4. The home shall maintain documentation that children were permitted to make free telephone calls to family members. Such documentation may include but is not limited to copies of telephone bills or notes in logs.

(f) The home shall not prohibit a child from receiving messages or mail or from making bi-weekly monthly telephone calls as a consequence for misbehavior.

(g) The home shall explain its policies and procedures to all families and children upon admission and give parents a written explanation of the policy for visiting and communication. This explanation shall include the procedures for sending emergency messages and mail.

SUBCHAPTER 10. SERVICES FOR PREGNANT AND PARENTING ADOLESCENTS

10:128-10.1 General requirements

(a) Any home or agency that provides services to pregnant adolescents and adolescent parents caring for their children shall meet all requirements of this subchapter and all applicable requirements of subchapters 1 through 9 of this manual (N.J.A.C. 10:128-1 through 9).

(b) The home or agency shall provide services that include, but are not limited to the following:

1. Services regarding paternal involvement;
2. Services to the adolescent's family;
3. Parenting education;
4. Infant stimulation;

5. Health education and physical care of the adolescent mothers and infants;

6. Nutrition; and

7. Life skills development.

(c) The home shall provide the following indoor space:

1. A private place where adolescents can store their belongings and those of their infant and shall provide the adolescents access to this place at all times;

2. Sufficient space to accommodate tables and chairs for all adolescents and on-duty child care staff to eat meals together;

3. Adequate space for the implementation of treatment services including individual counseling sessions, parent training sessions, family counseling sessions and case management planning meetings; and

4. The following floor space for bedrooms:

i. At least 70 square feet for the first occupant of a bedroom and 50 additional square feet for each additional occupant. The home shall not allow more than four occupants, including adolescents and/or infants, to sleep in the same bedroom; and

ii. For each adolescent and infant, at least 35 square feet of common living space, defined as those areas that adolescents and infants can use for socializing or recreation during waking hours. The dining area shall not be included in determining compliance with this requirement, unless the dining area is accessible to adolescents and infants outside of meal time.

(d) The home shall maintain all indoor areas in a safe and sanitary manner by ensuring that:

1. There are no poisonous plants;

2. Any corrosive agents, insecticides, bleaches, detergents, polishes, any products under pressure in an aerosol spray can, and any toxic substance are stored in locked cabinets or enclosed in areas not accessible to infants;

3. All electrical outlets accessible to infants have protective covers;

4. All fluorescent tubes and incandescent light bulbs have protective covers or shields;

5. All windows and other glass surfaces that are not made of safety glass and that are located within three feet above the floor shall have protective guards unless the home does not provide services to ambulatory infants or toddlers;

6. Staff has access to any bedrooms that the adolescents are allowed to lock;

7. Non-permanent safety barriers (safety gates) are installed to prevent infants from falling if the home has stairs, ramps, balconies, porches or elevated play areas;

8. Materials and furniture for indoor and outdoor use are of sturdy and safe construction, easy to clean and free of hazards that may be injurious to adolescents and infants;

9. Infants are kept away from hot stoves, irons and ironing boards, knives, glassware and other equipment that may cause injury; and

10. Poisons, insect traps, and rodent traps are kept out of the reach of infants.

(e) The home shall maintain all outdoor areas in a safe and sanitary manner by ensuring that:

1. Non-permanent safety barriers (safety gates) are installed to block steps used by infants, unless the steps are blocked by a door;

2. Snow is removed from sidewalks and from the walkways and paths leading to the entrances and exits of the home:

- i. Within 24 hours of cessation of snowfall; or
- ii. According to local ordinance; and

3. All drains and wells have protective coverings.

(f) The home shall provide a crib for each infant under 18 months of age but may allow infants to sleep in a playpen or on a mat at least one-inch thick on the floor for naps during the daytime.

(g) The home shall provide a crib or bed for each infant 18 months of age or older.

(h) The home shall ensure that:

1. Crib and playpen slats are no more than $2\frac{3}{8}$ inches apart;

2. Crib, bed and playpen mattresses are fire retardant;

3. The top rails of the crib or playpen are at least 19 inches above the mattress;

4. Any locks or latches on the dropside of a crib are safe from accidental release;

5. The mattress used in all cribs and playpens fits snugly;

6. Each infant has sheets, blankets and other coverings for his or her exclusive use, which are:

- i. Immediately replaced when wet, soiled or damaged; and
- ii. Laundered at least once a week;

7. Cribs and playpens are free of hazards including, but not limited to, use of mobiles (for infants six months of age or older, unless the infant/toddler is developmentally delayed and would benefit from a mobile) and excessive toys; and

8. Beds or cribs not used solely for a specific infant shall have linens and blankets replaced with clean linens and blankets before each use.

(i) The home shall provide beds for all adolescents.

(j) The home shall prohibit use of bunk beds for pregnant adolescents, adolescent mothers and infants.

(k) The home shall not use lead paint on and shall remove lead paint from any interior or exterior surfaces of a building, or on any furniture, toys, or other equipment used therein if deemed hazardous by a governmental agency, as specified in N.J.A.C. 10:128-4.

(l) The home shall ensure that each adolescent and infant has a personal supply of adequate, clean, well-fitting, and attractive clothing appropriate to his or her age, gender, individual needs, community standards, and season.

1. The home shall ensure that each adolescent's and infant's clothing is kept clean and in good repair; and the home may require adolescents to do their own laundry and that of their infant.

2. The home shall not require adolescents or infants to wear any article of clothing that would identify them as a resident of the home.

3. The home shall supply adolescents with necessary personal hygiene items.

10:128-10.2 Staff and staff ratio requirements

(a) The home shall only employ staff members who are at least 21 years of age.

(b) Homes may use student interns and volunteers to support the activities of regular paid staff members. However, student interns and volunteers below the age of 21 years shall not be permitted to provide activities or transportation by themselves.

(c) Homes that serve three or more pregnant or parenting adolescents shall have at least one staff person who is certified in first aid, cardiopulmonary resuscitation (CPR) and infant CPR, as defined by a recognized health organization (such as the American Red Cross) in the home during periods of operation.

(d) Treatment homes serving one or two adolescents shall have a child care staff member or house parent on duty whenever an adolescent or infant is present in the home.

1. When a treatment home serves two adolescents who together have five or more infants, the treatment home shall have at least two child care staff members or house parents to provide direct supervision when all adolescents and all infants are present in the home.

2. If five or more infants are present in the treatment home without their mothers, the treatment home shall

provide at least two staff members or house parents to care for the infants.

(e) Homes serving three or more adolescents shall have a minimum of two staff on duty at all times. Once this minimum is met, the following staff ratios shall be used to determine staff ratio requirements for the actual member of adolescents and infants present in the home:

Adolescents and/or Infants Present in the Home	Staff Ratio Requirement
Waking Hours—Infants only	1 staff: 4 infants
Waking Hours—Adolescents only	1 staff: 6 adolescents
Waking Hours—Adolescents and their infants	1 staff: 6 residents
Sleeping Hours—Adolescents with or without infants	1 staff: 6 residents

(f) A home may permit an adolescent to care for another adolescent's infant if the following conditions are met:

1. The adolescent who is assuming the care of another adolescent's infant cares for no more than one other infant in addition to her own at any one time;
2. The adolescents discuss the expectations of the caregiver, including duration of child care, infant's nutritional and toileting needs, and whether the mother will make arrangements for compensation; and
3. The home documents approval of the arrangement.

10:128-10.3 Staff development and training

(a) Upon employment, the home shall document in each staff member's personnel record that each staff member received instruction in all the items, specified in N.J.A.C. 10:128-5.4(a)1 through 8 and the following:

1. Recognizing and reporting child abuse and neglect;
2. Infant/toddler and adolescent growth and development; and
3. Infant feeding and nutrition.

(b) The home shall develop, document, and maintain on file a training plan to ensure that the director, social service worker(s) and child care staff receive a total of at least 24 hours of training each year that includes at least one hour of training in each of the following topics:

1. Recognizing and reporting child abuse and neglect;
2. Evacuating the facility;
3. Infant and adolescent growth and development;
4. Discipline of adolescents and infants;
5. Infant care and stimulation;
6. Drug and alcohol abuse;
7. Human sexuality and AIDS prevention; and
8. Depression and suicide prevention.

(c) The home's training plan may include in-depth discussions at staff meetings, or attendance at workshops and/or attendance at conferences.

(d) The home may train staff in evacuating the facility, infant care and development, infant discipline, drug and alcohol abuse, and human sexuality and AIDS prevention by including staff in instructional programs attended by the adolescents.

10:128-10.4 Case management requirements

(a) The home shall develop, implement and maintain on file a written case management plan for each adolescent and her infant.

(b) The home shall form a case management planning team that is responsible for the development of a case management plan for each adolescent and infant. The team shall consist of each of the following:

1. Staff members representing the clinical or social work component;
2. Staff members representing the child care component;
3. Staff members representing the administration of the home, if necessary;
4. Representatives from the adolescent's responsible school district and/or current school district, if necessary;
5. A representative from the Division or other placing agency;
6. The adolescent's family, if applicable; and
7. The infant's father or paternal relatives, if applicable.

(c) The home shall document in the adolescent's and infant's record that the Division's case manager or other placing agency representative, the adolescent's therapist, parents or legal guardian, and the responsible or current school district, if applicable, were invited to participate as members of the case management planning team and in all subsequent revisions of the plan.

(d) The home shall develop the initial case management plan within 30 calendar days following an adolescent's and/or her infant's admission and shall review or revise the plan at least every three months thereafter.

(e) The case management plan shall include the following information:

1. The name of the adolescent, and infant, if relevant;
2. The date of admission of the adolescent, and infant, if relevant;
3. The date when the plan is developed or revised;

4. The names and titles of all persons attending the development and review meeting;

5. The adolescent's plan for and receipt of medical and dental care;

6. The infant's plan for and receipt of medical care, and dental care if the infant is three years of age or older;

7. Documentation that a referral to the Supplemental Feeding Program for Women, Infants, and Children (WIC) or other equivalent program was made and that any necessary follow up was done, or documentation that the adolescent or infant was ineligible for WIC or other equivalent program;

8. The adolescent's social, familial, emotional and behavioral strengths and weaknesses;

9. An assessment of the interest in the unborn child or child by the father, including a notation of whether the infant's paternity has been legally established;

10. An assessment of the adolescent's parenting capabilities including but not limited to the adolescent's ability to feed and play with her infant, provide for her infant's grooming, provide medical care, and use child care responsibly, if applicable;

11. An assessment of the adolescent's academic progress, including a report of attendance and grades obtained within 30 calendar days of the case planning meeting;

12. An assessment of the health and development of the infant, including available developmental assessments from health examinations;

13. Specific treatment goal(s) in each program area and a projected time frame for completing each goal;

14. The name of the person responsible for the implementation of each treatment goal;

15. Techniques to be used to achieve each treatment goal;

16. Criteria to be used to determine whether each treatment goal is achieved;

17. A notation of progress made from any previous plan;

18. Efforts to achieve timely discharge, including but not limited to services needed by parents or other persons to whom the adolescent will be discharged; and

19. Documentation of how the adolescent is being prepared for self-sufficiency. This documentation shall include but not be limited to instruction in:

i. Food preparation, including participation in preparing at least one meal a week and training in food shopping at least once a month;

ii. Budgeting and money management, including but not limited to discussion of standard deductions from

a paycheck, costs for housing and transportation and how to open and use a savings and checking account; and

iii. Career planning and job training, including but not limited to discussion of entry level requirements for job openings in the community and assistance in obtaining the qualifications for these positions.

(f) The home shall send to the Division's case manager or other placing agency a copy of the case management plan and any revisions to it within 30 calendar days after the planning meeting and retain a copy of the correspondence in the adolescent's and infant's record.

(g) The home shall explain to the adolescent, her parents, and all persons responsible the adolescent's and infant's case management plan and any revisions to it. If the home does not explain the adolescent's and infant's case management plan to the adolescent's parents, the home shall document in the adolescent's case record the reasons that the plan was not explained to the parents.

(h) The home shall provide and monitor all services specified in the case management plan and document the rationale for any deviations from the most recent case management plan in the adolescent's and infant's record.

(i) When an adolescent mother expresses interest in surrendering her infant for adoption, the home shall:

1. Explain to the adolescent mother the implications and process of adoption;

2. Notify the Division's case manager or other placing agency;

3. Notify the adolescent's parent or legal guardian, if applicable; and

4. Provide the adolescent with information in order to contact legal counsel if she so chooses.

10:128-10.5 Discharge planning requirements

(a) For discharges that can be anticipated at least 30 calendar days ahead of time, the home shall develop a plan with the Division's case manager or other placing agency at least 30 calendar days before the adolescent's or infant's discharge. The plan shall specify the following information:

1. The date of admission;

2. The anticipated date of discharge;

3. Details of the events and circumstances leading to the decision to discharge;

4. The name and address of the individual or agency to whom the adolescent or infant will be discharged and the rationale for planning a discharge to that individual or agency;

5. An assessment of the adolescent's continuing needs including, but not limited to, consideration of health care, behavior management and educational or vocational training; and

6. An assessment of the infant's continuing needs including, but not limited to, consideration of health care and child care and referral to the Supplemental Feeding Program for Women, Infants and Children (WIC) or other equivalent program.

(b) For discharges that were not anticipated at least 30 calendar days ahead of time, the home shall send the Division's case manager or other placing agency a written plan at least 10 calendar days prior to the adolescent's or infant's discharge. The plan shall specify the following information:

1. The date of admission;
2. Details of the events and circumstances leading to the discharge;
3. Efforts made to locate a runaway, if relevant;
4. An assessment of the adolescent's continuing needs including, but not limited to, health care, behavior management and educational and vocational training;
5. An assessment of the infant's health and child care needs, if relevant; and
6. Recommendations for providing follow-up services in the adolescent's or infant's new environment, including consideration of whether the adolescent or infant would be eligible for WIC or other equivalent program.

(c) For emergency discharges that result in the immediate placement of the adolescent or infant in a facility such as a detention center, hospital, psychiatric facility or any other placement outside the home, the home shall notify the Division's case manager or other placing agency by the next working day by telephone. The home shall send a written discharge plan within 10 days after the adolescent's or infant's discharge. This plan shall specify the information outlined in (b)1 through 6 above.

10:128-10.6 Services regarding paternal involvement

(a) The home, in conjunction with the Division or other placing agency, shall explain to the adolescent mother:

1. The benefits of establishing paternity for her infant and her options for establishing paternity;
2. Information about the procedures for establishing paternity;
3. How to deal with future questions her infant may have about his or her father;
4. How to manage visitation arrangements between her infant and the infant's father; and

5. That establishing paternity is not a condition for remaining in the home.

(b) The home shall discuss the topics specified in (a) above prior to the discharge of the adolescent mothers in individual or group meetings with adolescent mothers and assist the adolescent in establishing paternity if she so requests.

(c) Unless it is contraindicated by the Division's case manager, when the infant's father is known and the adolescent mother agrees, the home shall attempt to arrange contact with him to discuss his interest in his child.

(d) The home shall allow the fathers of infants residing in the home to attend parenting classes provided by the home.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In the introductory paragraph of (a), substituted "Division or other placing agency" for "District Office".

10:128-10.7 Services to the adolescent's family

(a) Unless it is contraindicated by the Division's case manager, the home shall attempt contact with the adolescent's parents, or other adult relatives who are responsible for the adolescent if the parents are not available, to discuss the case management plan.

10:128-10.8 Parenting education

(a) The home shall have a written curriculum or guidelines for providing parenting education that shall include, but not be limited to, the following topics:

1. Infant and child development including alternatives to punishment and options for toilet training;
2. Age-appropriate stimulation, games and other recreational activities for children;
3. Providing for child care;
4. Health and nutritional care including an explanation of the Supplemental Feeding Program for Women, Infants and Children (WIC);
5. Relationships with the adolescent mother's family;
6. Dealing with feelings about the adolescent's relationship with the infant's father; and
7. Options for placing the infant in a separate foster care placement or for adoption.

(b) The home shall provide parenting education on a group or individual basis to each adolescent.

(c) The home shall provide each adolescent at least one hour of parenting education each week until the home documents that the adolescent has mastered skills or resolved issues specified in (a) above.

(d) The home shall involve the adolescent in shopping for her infant's clothes and other necessities.

(e) The home shall provide information to the adolescent on preventing child abuse and neglect, including, but not limited to:

1. Discussion of mandatory reporting;
2. How to identify the reported abuse and neglect; and
3. Resources to help parents avoid abusing or neglecting their children.

10:128-10.9 Infant stimulation

(a) The home shall ensure that all infants under three months of age are held and spoken to, or placed in a position to observe group activity when they are awake during day-time hours.

(b) The home shall ensure that infants up to six months of age are held by their mother or staff members throughout all feedings and that older infants are held if they are incapable of holding a bottle on their own.

(c) The home shall ensure that all infants have at least one toy that is accessible to them in their bedrooms.

(d) The home shall ensure that when adolescent mothers are in school or working, their infants are cared for, either in the home, in a licensed child care center or in a licensed or registered family day care or group day care home.

(e) Homes that provide services to adolescent mothers and infants between three and 18 months of age shall ensure that the adolescent mothers engage in at least four of the following activities with their infants for at least a total of 45 minutes each day:

1. Sensory activities: crib mobiles, teething toys, busy boxes, baby mirrors, rattles, melody chimes, squeeze toys, or other comparable supplies or equipment;
2. Language activities: picture books, toy telephones, records, hand puppets, stuffed animals, soft washable dolls, photographs, or other comparable supplies or equipment;
3. Manipulative activities: squeeze and grip toys, boxes, sorting and stacking toys, three or four-piece wooden inlay puzzles, puzzle blocks, simple threading toys, mobile pull toys, balls, or other comparable supplies or equipment;
4. Building activities: soft lightweight blocks, toy cars, trains or boats, figures of animals and people, stacking rings or cups, nesting toys, or other comparable supplies or equipment;
5. Large muscle activities: low climbers, slides, riding or rocking toys, foam or soft plastic balls, gym mats, play tunnels, or other comparable supplies or equipment;
6. Music activities: rhythm instruments, record player and records, toys equipped with musical tones, musical mobiles, busy boxes, drums, xylophones, pianos, or other comparable supplies or equipment.

(f) Homes that provide services to adolescent mothers and infants 18 months of age and older shall ensure that adolescent mothers engage in at least three of the following activities with their child for at least a total of 45 minutes each day:

1. Language activities: reading a book, playing with flannel boards, pictures for discussion, materials for recognition, identification or classification, puppets, audio-visual equipment, or other comparable supplies or equipment;
2. Science and math activities: plants and gardening equipment, aquarium with fish or other appropriate live animals, water table and supplies, sand table and supplies, cooking supplies, weather chart, thermometer, counting equipment, or other comparable supplies or equipment;
3. Manipulative activities: puzzles, pegs and peg-boards, lacing boards, table top building toys, stencils, dominoes, pounding bench, lotto games, or other comparable supplies or equipment;
4. Large muscle activities: rocking boat, wheel toys, climbers, slides, balance beam, barrels, large cartons, parachute, balls and beanbags, outdoor play equipment, gym mats, or other comparable supplies or equipment;
5. Building activities: unit blocks—minimum of four sizes, transportation toys, farm animals, play people, work bench and tools, table top building toys, building logs, or other comparable supplies or equipment;
6. Art activities: crayons, tempera paint, large brushes and newsprint, finger paint and finger paint paper, construction paper in assorted colors, paste or glue, blunt scissors, collage materials, non-toxic felt tip markers, easels, clay or playdough, or other comparable supplies or equipment; or
7. Music activities: record player and records, piano, organ, guitar, rhythm sticks, drums, cymbals, bells, tape recorder, or other comparable supplies or equipment.

(g) The home shall ensure that television watching is not used as a substitute for mother-child interaction.

10:128-10.10 Infant toys and equipment

(a) The home shall only use infant and play equipment that is sturdy and of safe construction, non-toxic and free of hazards.

(b) The home shall have a choker tube to ensure that all parts of all toys used by infants under three years of age are large enough so they can not be swallowed by the infants.

(c) The Office of Licensing may also require the home to take other necessary precautions to promote toy and equipment safety in keeping with recommendations of the United States Consumer Product Safety Commission.

Amended by R.2006 d.433, effective December 18, 2006.
See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).
In (c), substituted "Office of Licensing" for "Bureau".

10:128-10.11 Recreation

(a) In addition to the requirements specified in N.J.A.C. 10:128-6.8, the home shall encourage each adolescent to use her leisure time productively by documenting in the adolescent's case management plan the home's efforts to:

1. Inform the adolescent of appropriate activities for herself and her infant in the community;
2. Teach the adolescent how to manage time and money to be able to participate in recreational activities; and
3. Teach the adolescent how to use public transportation so she and her infant can go to activities in the community.

(b) The home shall organize monthly outings or planned group activities within the home for adolescents and their infants.

10:128-10.12 Money and allowance

(a) The home shall provide opportunities for all adolescents to earn an allowance, unless the adolescent is receiving Temporary Assistance for Needy Families (TANF) benefits.

(b) The home shall not require an adolescent to assume responsibility for expenses for her care or that of her infant, except for amounts needed to pay for damages done to the home by the adolescent or her infant.

1. When an adolescent damages the home's property, the home shall verify who damaged the property in an incident report before requiring the adolescent to pay restitution.
2. When an infant damages the home's property, the home shall verify who damaged the property and that the damage resulted from a lack of supervision by the adolescent mother, before requiring the adolescent mother to pay restitution.
3. The restitution payments shall not exceed 50 percent of an adolescent's weekly income from allowance and earnings.
4. Adolescents who are working or have a savings account shall have the option to make a lump sum payment for intentional damages.
5. The home may offer the adolescent the option of performing additional chores in lieu of restitution payments.

10:128-10.13 Visiting and communication

(a) The home may ensure that the adolescents and infants are allowed to have regular contact with family members, including the infant's father.

1. The home shall designate hours for family visits provided that there are opportunities for families to visit each week.

2. The home may limit family members' visits to designated places within the home provided that family members visiting with the infant have access to equipment and toys that can foster communication with the infant.

(b) The home shall develop a visiting policy and explain the visiting policy to the adolescent and her parent(s) at intake. The visiting policy shall specify:

1. How visiting may be arranged;
2. That family visits shall not be denied for an adolescent's infraction of rules, but may be denied as part of a case management plan after consultation with the Division's case manager or other placing agency;
3. That family members who are under the influence of drugs or alcohol shall not be allowed to transport the adolescent or her infant;
4. That the adolescent and infant may visit with representatives from the Division or other placing agency upon request and that these visits shall not be denied for any reason;
5. The hours when an adolescent may visit with friends and whether the adolescent's visits with friends may be curtailed for infraction of the rules;
6. That the home may overrule an adolescent's arrangements for leaving her infant with persons living outside the home; and
7. That family members, including the infant's father, shall not be denied visitation unless the home documents show they pose a risk to the infant or adolescent.

10:128-10.14 Behavior management

(a) Staff members shall follow all the requirements as specified in N.J.A.C. 10:128-6.14.

(b) The home shall assign responsibility for the discipline, control, and supervision of adolescents to staff members and not delegate that responsibility to other adolescents.

(c) The home shall prohibit adolescents from using the punishments specified in N.J.A.C. 10:128-6.14 on their own infants or on another infant for whom they are caring.

(d) The home shall ensure that no staff member or adolescent mother disciplines an infant for refusing to eat or sleep, or for crying or soiling.

10:128-10.15 Comprehensive health plan for pregnant adolescents

(a) The home shall ensure that all pregnant adolescents receive comprehensive prenatal care including, but not limited to:

1. Monthly visits to an obstetrician or certified nurse mid-wife during the first 28 weeks of gestation;
2. Biweekly visits to an obstetrician or certified nurse mid-wife from the 29th to 36th week of gestation;
3. Weekly visits to an obstetrician or certified nurse mid-wife from the 36th week of gestation until delivery;
4. Child birth classes provided by a registered nurse or child birth educator; and
5. A postpartum visit within six weeks of delivery.

(b) The home shall ensure that pregnant adolescents make up missed medical appointments.

(c) The home shall refer all pregnant adolescents to the Supplemental Feeding Program for Women, Infants and Children (WIC) or other equivalent program and make necessary follow-up, or document that the pregnant adolescent was ineligible for WIC or other equivalent program.

(d) The home shall ensure that arrangements for the birth of the infant are made by the end of the first trimester. If the adolescent enters the home after the first trimester, the home shall ensure that arrangements for delivery are made by the second prenatal visit.

1. The home shall ensure that a system is established to provide background medical information on the pregnant adolescent to the hospital identified for delivery or at the birthing center identified for delivery.
2. The home shall document that delivery arrangements have been made by recording the name and address of the selected hospital or birthing center in:
 - i. The adolescent's record; or
 - ii. As part of the administrative record.

(e) The home shall ensure that a staff member or volunteer accompanies the adolescent to the hospital or birthing center when she is ready to deliver and that the staff member or volunteer remains with the adolescent until health care personnel are assigned to her.

(f) The home shall arrange for pregnant adolescents to receive a dental examination within three months of admission and every six months thereafter.

10:128-10.16 Comprehensive health plan for infants

(a) The home shall ensure that infants were referred to the Supplemental Feeding Program for Women, Infants and Children (WIC) or other equivalent program and take necessary

follow-up, or document that the infant was ineligible for WIC or other equivalent program.

(b) Unless contraindicated by the physician, the home shall ensure that the adolescent mothers adhere to the following schedule in obtaining health care for infants:

1. At age one month, the infant receives:
 - i. A physical examination including height, weight, temperature check, and measurement of head and chest circumference;
 - ii. A check for PKU, if indicated (may be completed prior to the infant's discharge from the hospital);
 - iii. A check for hypothyroidism, if indicated (may be completed prior to the infant's discharge from the hospital);
 - iv. A check for galactosemia, if indicated (may be completed prior to the infant's discharge from the hospital);
 - v. A check for sickle cell disease, if indicated (may be completed prior to the infant's discharge from the hospital); and
 - vi. A check for other hemoglobinopathies, if indicated (may be completed prior to the infant's discharge from the hospital);
2. Between two and two and one-half months of age, the infant receives a physical examination;
3. Between three and one-half and four months, the infant receives a physical examination;
4. Between five and six months, the infant receives:
 - i. A physical examination; and
 - ii. A developmental assessment;
5. Between eight and nine months, the infant receives:
 - i. A physical examination;
 - ii. A hemoglobin test; and
 - iii. A sickle cell screening, if indicated;
6. Between 11 and 12 months, the infant receives:
 - i. A physical examination;
 - ii. A developmental assessment; and
 - iii. A tuberculin test;
7. At 15 months, the infant receives a physical examination;
8. At 18 months, the infant receives a physical examination;
9. At 24 months and annually thereafter (until age five), the infant receives:

- i. A physical examination;
- ii. A developmental assessment;
- iii. A hemoglobin test;
- iv. Urinalysis, and a tuberculin test if indicated; and

10. At 36 months and semi-annually thereafter, a dental examination.

(c) Unless contraindicated by the physician, the home shall ensure that all infants, toddlers and children receive the following childhood immunizations and boosters within the established age ranges as recommended by the Center for Disease Control's (CDC) Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP):

1. Diphtheria, Tetanus, Pertussis (DPT) or Diphtheria and Tetanus Toxoids and acellular Pertussis (DTaP) Vaccine;
2. Inactivated Poliovirus Vaccine (IPV) or All-Oral Poliovirus Vaccine (OPV);
3. Measles-Mumps-Rubella Vaccine (MMR);
4. Haemophilus influenzae type b (hib) vaccine;
5. Hepatitis B Vaccine; and
6. Varicella Virus Vaccine.

(d) The home shall ensure that the adolescent mother has her child's sight and hearing tested when she takes a child over three and one-half years of age for a medical examination. This testing shall be repeated for children ages four and five years old who remain in the home.

10:128-10.17 Comprehensive health care for adolescent mothers who are not pregnant

(a) The home shall ensure that all adolescent mothers who are not pregnant and who have not had a health examination within 30 days prior to admission, receive a comprehensive health examination within 72 hours of admission to the home. This comprehensive health examination shall include, but not limited to, an assessment of:

1. Height and weight;
2. Blood count;
3. Urinalysis;
4. Vision;
5. Hearing; and
6. Gynecological exam.

(b) The home shall arrange for follow-up medical care recommended as part of the comprehensive health examination.

(c) The home shall ensure that adolescent mothers receive a dental examination within three months of admission and every six months thereafter.

10:128-10.18 Care of sick infants

(a) When an infant at the home has any illness or symptom of illness including, but not limited to, those specified below, the home shall ensure that the adolescent mother or staff contacts a licensed physician:

1. Severe pain or discomfort;
2. Acute diarrhea, characterized as twice the child's usual frequency of bowel movements with a change to a looser consistency within a period of 24 hours, or bloody diarrhea;
3. Two or more episodes of acute vomiting within a period of 24 hours;
4. Elevated oral temperature of 101.5 degrees Fahrenheit or over or axillary temperature of 100.5 degrees Fahrenheit or over in conjunction with behavior changes;
5. Lethargy that is more than expected tiredness;
6. Yellow eyes or jaundiced skin;
7. Red eyes with discharge;
8. Infected, untreated skin patches;
9. Difficult or rapid breathing or severe coughing;
10. Skin rashes in conjunction with fever or behavior changes;
11. Weeping or bleeding skin lesions that have not been treated by a health care provider;
12. Mouth sores with drooling; or
13. Stiff neck.

(b) The home shall follow the physician's advice about whether to permit the infant who is ill to have contact with other infants.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In the introductory paragraph of (a), inserted a comma following "including" and "to"; in (a)2, inserted "or bloody diarrhea"; rewrote (a)5; in (a)9, inserted "or severe coughing"; in (a)10, substituted "in conjunction with fever or behavior changes" for " , excluding diaper rash, lasting more than one day"; in (a)11, substituted "health care provider" for "physician or nurse"; rewrote (a)12; deleted (a)13; recodified former (a)14 as new (a)13; in (a)13, substituted a period for " ; or" at the end; and deleted (a)15.

10:128-10.19 General medical practices

(a) The home shall ensure that any medical, dental, psychological or psychiatric treatment or medication administered to an adolescent is explained to the adolescent.

1. The home shall ensure that any medical, dental, psychological or psychiatric treatment or medication administered to an infant is explained to the adolescent mother.

(b) When serious accidents or illnesses occur to an infant, the home shall take necessary emergency action and notify the adolescent, the adolescent's parents, if applicable, the Division's case manager or other placing agency and the Office of Licensing immediately.

(c) When serious accidents or illnesses occur to an adolescent, the home shall take necessary action and notify the adolescent's parents if she is under 18 years of age, the Division's case manager or other placing agency and the Office of Licensing immediately.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In (b) and (c), substituted "Office of Licensing" for "Bureau".

10:128-10.20 Medication

(a) The home shall ensure that adolescents use only prescription and non-prescription medication that is authorized by a physician.

1. The home shall permit adolescents to administer medication to their infants and themselves, unless the physician, psychiatrist or psychologist advises otherwise; in such cases the home shall document the reasons in the adolescent's record.

2. The home shall ensure that adolescents follow the advice of the infant's physician for administering medication to their infants.

3. The home shall supervise the adolescent's administration of all medication she gives to her infant and may require the adolescent to record the information specified in (b) below.

(b) The home shall maintain a medication log book that contains the following information:

1. Name of adolescent or infant receiving medication, whether prescription or non-prescription;

2. Type of medication, dosage, and intervals between dosages;

3. What to do if a dosage is missed;

4. Reason for medication;

5. Date and time medication was administered;

6. Possible side effects of the medication, if any; and

7. Signature and title of staff member or adolescent dispensing medication.

(c) The home shall ensure that the following procedures for storage are followed:

1. Homes shall keep prescription and non-prescription drugs in a locked cabinet, or, as needed, a locked container in a refrigerator that is inaccessible to infants;

2. External drugs and internal drugs shall be stored in separate locked shelves;

3. All outdated stocks and prescriptions no longer in use shall be disposed of safely, as specified in N.J.A.C. 10:128-7.4;

4. The telephone number of the regional poison control center shall be posted at all medication-dispensing stations and by each telephone; and

5. Medical supplies shall be stored in an area accessible to staff members at all times.

(d) In situations where the home determines that an adolescent is capable of self-administration of prescription birth control-related supplies, the home may allow the adolescent to maintain prescription birth control-related supplies among her personal possessions, provided that the home:

1. Provides a locked cabinet or box for storage; and

2. Documents the rationale and arrangements for the adolescent to maintain prescription birth control-related supplies.

10:128-10.21 Environmental sanitation requirements for disinfecting

(a) The home shall first wash with soap and water and then disinfect those items specified below with a solution that shall either be:

1. A commercially prepared disinfectant that indicates it kills bacteria, viruses and parasites. This solution shall be used in accordance with label instructions; or

2. A self-made solution consisting of one-quarter cup of household bleach to each gallon of water (one tablespoon per quart), which shall be prepared daily and placed in a labeled, sealed container. This self-made solution shall not be utilized with those items specified in (d)2 below.

(b) The home shall ensure that the following equipment, items or surfaces are washed and disinfected after each use:

1. Toilet training chairs that have first been emptied into a toilet unless each infant has his or her own toilet training chair;

2. Sinks and faucets used for handwashing, if the sink is also used for rinsing a toilet training chair;

3. Diapering surfaces, used by more than one infant;

4. Toys mouthed by infants before being given to another infant;

5. Mops used for cleaning; and

6. Oral and rectal thermometers.

(c) The home shall wash and disinfect the following items at least daily:

1. Toilets and toilet seats used by more than one infant;
2. Diaper pails and lids used by more than one infant;
3. Drinking fountains;
4. Water table and water play equipment;
5. Play tables; and
6. Smooth surfaced non-porous floors in areas used by infants.

(d) The home shall wash and disinfect the following items at least weekly, and before use by another infant:

1. Cribs, cots, mats, playpens or other sleeping equipment approved by the Office of Licensing; and
2. Sheets, blankets or other coverings.

(e) The home shall wash and disinfect tables used by the infant for eating before each meal.

(f) Homes that maintain outside sandboxes or play areas containing sand shall ensure that:

1. Only asbestos-free sand is used; and
2. The sand is maintained in a safe and sanitary manner.

Amended by R.2006 d.433, effective December 18, 2006.

See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In (d)1, substituted "Office of Licensing" for "Bureau".

10:128-10.22 Personal hygiene requirements

(a) The home shall ensure that adolescents and staff members wash their hands with soap and running water immediately:

1. Before preparing or serving food;
2. After diapering a child;
3. After toileting;
4. After assisting a child in toileting;
5. After caring for a child who appears to be sick;
6. After handling animals or their equipment or after coming in contact with an animal's body secretions; and
7. After coming into contact with blood; fecal matter, urine, vomit, saliva, nasal secretions or other body fluids or secretions.

(b) The home shall ensure that adolescents or staff members:

1. Change each infant's diaper when wet or soiled; and
2. Wash and dry each infant's bottom during each diaper change with an individual disposable wash cloth, paper towel or disposable diaper wipes.

(c) The home shall ensure that soiled diapers are placed in a closed container that is lined with a leakproof or impervious lining.

1. Disposable diapers shall be removed from the home daily and placed in a closed container that is outside the building and used for refuse collection.

2. Non-disposable diapers shall be stored and laundered separately for each child except when the diapers are laundered by a commercial laundry service.

10:128-10.23 Health education and physical care for adolescents and infants

(a) The home shall ensure that adolescents receive training in personal care, hygiene, and grooming habits.

1. The home shall discuss the physiological changes experienced during adolescent pregnancy and childbearing with adolescents in the home.

2. The home shall instruct adolescents about sexually responsible behavior, including how to protect themselves from pregnancy and sexually transmitted diseases, including AIDS.

3. The home shall instruct all adolescents about the health consequences of cigarette smoking and alcohol and drug use.

(b) The home shall ensure that each adolescent bathes and grooms her infant daily, and provides other personal hygiene services that are necessary to meet the infant's needs.

1. The home shall give each adolescent and infant individual towels and washcloths.

2. The home shall ensure that soap and toilet paper are available for the adolescents and infants at all times.

10:128-10.24 Food and nutrition for infants

(a) In addition to the requirements specified in N.J.A.C. 10:128-6.11, the home shall ensure that each adolescent mother obtains and follows a written plan developed with the infant's health care provider regarding the feeding schedule, specific formula, nutritional needs and introduction of new food for each infant.

1. The home shall maintain on file the feeding schedule of each infant residing in the home in the infant's record.

2. The home shall ensure that the adolescent makes the feeding schedule available to all of the infant's caregivers.

10:128-10.25 Life skills development

(a) The home or agency shall ensure that the adolescent mothers receive instruction and experience in the following:

1. Meal planning and meal preparation;

2. Food shopping;
3. Locating affordable housing;
4. Securing appropriate medical and dental services;
5. Utilization of public transportation;
6. Home safety guidelines including:
 - i. Notifying the local public service or utility company when gas leaks are suspected;
 - ii. Keeping the child away from a hot stove;
 - iii. The dangers of open windows when infants are present;
 - iv. The appropriate methods to rid the home of pests;
 - v. Fire prevention; and
 - vi. Contacting the appropriate community agency when an emergency occurs;
7. Banking; and
8. Applying for public assistance and/or job/vocational training.
 - (b) The home or agency shall document in the adolescent mother's record that she has received the training in (a) above.