

**CHAPTER 127**

**MANUAL OF REQUIREMENTS FOR  
RESIDENTIAL CHILD CARE FACILITIES**

**Authority**

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

**Source and Effective Date**

R.2016 d.143, effective September 23, 2016.  
See: 48 N.J.R. 699(a), 48 N.J.R. 2242(a).

**Chapter Expiration Date**

Chapter 127, Manual of Requirements for Residential Child Care Facilities, expires on September 23, 2023.

**Chapter Historical Note**

Chapter 127, Manual of Standards for Residential Child Care Facilities, was adopted as R.1976 d.77, effective March 10, 1976. See: 8 N.J.R. 37(a), 8 N.J.R. 195(e).

Chapter 127, Manual of Standards for Residential Child Care Facilities, was repealed and Chapter 127 was adopted as new rules by R.1983 d.393, effective September 19, 1983, (operative November 1, 1983). See: 15 N.J.R. 486(a), 15 N.J.R. 1597(a).

Pursuant to Executive Order No. 66(1978), Chapter 127, Manual of Standards for Residential Child Care Facilities, was readopted as R.1988 d.456, effective August 26, 1988. See: 20 N.J.R. 1149(a), 20 N.J.R. 2387(b).

Public Notice: Annual certification to Legislature of facility standards pursuant to Keys Amendment to Social Security Act. See: 24 N.J.R. 656(a); 25 N.J.R. 603(a).

Chapter 127, Manual of Standards for Residential Child Care Facilities, was repealed and Chapter 127, Manual of Requirements for Residential Child Care Facilities, was adopted as new rules by R.1993 d.403, effective August 16, 1993. See: 25 N.J.R. 1716(a), 25 N.J.R. 3787(a).

Pursuant to Executive Order No. 66(1978), Chapter 127, Manual of Requirements for Residential Child Care Facilities, was readopted as R.1998 d.413, effective July 15, 1998. See: 30 N.J.R. 1494(a), 30 N.J.R. 3055(a).

Chapter 127, Manual of Requirements for Residential Child Care Facilities, was readopted as R.2004 d.1, effective November 21, 2003. See: 35 N.J.R. 3814(a), 36 N.J.R. 194(a).

Chapter 127, Manual of Requirements for Residential Child Care Facilities, was readopted as R.2009 d.140, effective March 27, 2009. See: 41 N.J.R. 69(a), 41 N.J.R. 2014(b).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 127, Manual of Requirements for Residential Child Care Facilities, was scheduled to expire on March 27, 2016. See: 43 N.J.R. 1203(a).

Chapter 127, Manual of Requirements for Residential Child Care Facilities, was readopted as R.2016 d.143, effective September 23, 2016. See: Source and Effective Date.

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**SUBCHAPTER 1. GENERAL PROVISIONS**

**10:127-1.1 Legal authority**

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

(b) Under N.J.S.A. 30:1-14 and 30:4C-4, the Department of Human Services is authorized to inspect, evaluate, and approve publicly or privately operated facilities 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, the following facilities shall be subject to inspection, evaluation, and approval by the Department of Human Services, Division of Youth and Family Services:

1. New Jersey-based children's residential facilities, as defined in this chapter, except facilities that are licensed, approved or regulated pursuant to State law by the Division of Developmental Disabilities or the Division of Mental Health and Hospitals, both of the Department of Human Services, by the State Department of Health, by the State Department of Education, by the State Department of Corrections or by any other New Jersey State agency; and

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

(d) In order to be approved, a children's residential facility shall demonstrate to the satisfaction of the Department of Human Services or its duly authorized agent that it complies with all applicable provisions of this chapter.

(e) Responsibility for ensuring that the facility specified in (c) above complies with the provisions of the statutes cited in (a) above and of this chapter is delegated by the Department of Human Services to the Division of Youth and Family Services, Bureau of Licensing. The Division is authorized to visit and inspect such facilities, as described in N.J.A.C. 10:127-1.2(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 Human Services is also authorized to visit and inspect publicly or privately maintained institutions or other institutions and noninstitutional agencies that:

1. Provide board, lodging or care for children who are not placed or financed by the Division of Youth and Family Services or any other New Jersey State agency; and
2. Are not subject to licensing or regulation by any New Jersey State agency.

(g) The Division of Youth and Family Services is authorized to visit and inspect such facilities 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 chapter 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.

**10:127-1.2 Definition and types of children's residential facilities**

(a) "Residential child care facility" or "residential facility" or "facility" means any public or private establishment that provides room, board, care and treatment services for 13 or more children on a 24-hour-a-day basis.



(b) Residential child care facilities that are subject to the provisions of this chapter include:

1. Division-contracted or Division-operated residential child care facilities that serve children with emotional and/or behavioral problems and provide on-grounds educational programming;
2. Division-contracted or Division-operated residential child care facilities that serve children with emotional and/or behavioral problems who attend schools in the community; and
3. Division-contracted residential child care facilities that provide:
  - i. Drug and alcohol treatment services;
  - ii. Psychiatric services;
  - iii. Services to children with physical disabilities; or
  - iv. Adventure programs that serve children with emotional and/or behavioral problems.

Amended by R.1998 d.413, effective August 17, 1998.

See: 30 N.J.R. 1494(a), 30 N.J.R. 3055(a).

In (a), substituted "13 or more" for "16 or more" preceding "children".

#### 10:127-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings:

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

"Bureau" means the Bureau of Licensing of the Division of Youth and Family Services, New Jersey Department of Human Services.

"Chapter" means the rules contained in the Manual of Requirements for Residential Child Care Facilities, as specified in N.J.A.C. 10:127-1.1 to 10.25 and reflect provisions that constitute minimum baseline requirements below which no facility that is subject to the authority of N.J.S.A. 30:1-14 and N.J.S.A. 30:4C-4 is legally permitted to operate.

"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 Division in placement in a residential child care facility.

"Denial of a certificate" means the withholding by the Bureau of an initial certificate of approval for which a facility has applied.

"Department" means the New Jersey Department of Human Services.

"Director" means the on-site staff member responsible for the daily operation and management of the facility.

"Division" means the Division of Youth and Family Services, New Jersey Department of Human Services.

"Exclusion" means the removal of a child to an area or room in the facility 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 facility serving adolescent mothers.

"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 facility.

"Refusal to renew a certificate" means the non-issuance of a certificate of approval by the Bureau to a facility after its existing certificate has expired.

"Regular certificate of approval" or "regular certificate" means a document issued by the Bureau to a facility indicating that the facility is in full compliance with all applicable provisions of this chapter.

"Restraint" means the holding of a child so that he or she cannot move all or part of his or her body.

"Restrictive behavior management practice" means the use of restraint, exclusion, mechanical restraint and a behavior management room as part of a comprehensive treatment plan to help the child develop self-control, to reduce maladaptive behavior, to protect the child and others from harm or to prevent serious disruption to the therapeutic environment.

"Revocation of a certificate" means a permanent removal of a facility's current certificate of approval to operate.

"Shall" denotes a provision of this chapter that a facility must meet to qualify for a certificate of approval.

"Should" denotes a recommendation reflecting goals towards which a facility is encouraged to work.

"Staff member" or "staff" means any person employed by or working for or at a facility 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 facility's current certificate of approval to operate.

"Temporary certificate of approval" or "temporary certificate" means a document issued by the Bureau, to a facility that is in substantial compliance with all applicable provisions of this chapter, provided that no serious or imminent hazard affecting the children exists in the facility.

Amended by R.1998 d.413, effective August 17, 1998.

See: 30 N.J.R. 1494(a), 30 N.J.R. 3055(a).

In "Exclusion", substituted "limited or no stimulation" for "limited stimulation" at the end of the first sentence.

## SUBCHAPTER 2. APPROVAL PROCEDURES

### 10:127-2.1 Application for a certificate of approval

(a) No person shall operate a residential child care facility that provides board, lodging, care and treatment services for children who are placed or financed by the Division or by any other New Jersey State agency without first securing a certificate of approval from the Bureau, except for facilities that are subject to licensing or regulatory approval pursuant to State law by any other New Jersey State agency.

(b) A facility applying to the Bureau for an initial certificate of approval shall submit a completed application form to the Bureau, including the documentation specified in N.J.A.C. 10:127-4.1(a), (b) and (c), at least 45 calendar days prior to the anticipated opening of the facility.

(c) A facility applying to the Bureau for a renewal of its certificate of approval shall submit a completed application form to the Bureau, including the documentation specified in N.J.A.C. 10:127-4.1(d), at least 45 calendar days prior to the expiration of its existing regular certificate.

(d) The application form referenced in (b) and (c) above shall include the following:

1. General identifying information;
2. Name(s) of the sponsors;
3. Names of members of the governing board;
4. A description of the agency's program, including program philosophy, goals and objectives;
5. A list of staff members; and
6. A list of residents placed by the Division.

Administrative Correction.

See: 25 N.J.R. 4932(c).

### 10:127-2.2 Issuance of a certificate of approval

(a) The Bureau shall issue a regular certificate of approval to a facility that has achieved full compliance with all applicable provisions of this chapter.

(b) If the Bureau determines that a facility is in substantial compliance with, but does not meet all applicable provisions of, this chapter, and provided that there is no serious or imminent hazard to the education, health, safety, well-being or treatment needs of the children, the Bureau shall issue a temporary certificate to the facility and indicate in writing the steps the facility must take to secure a regular certificate of approval.

(c) A temporary certificate may be issued for a period not to exceed six months. The Bureau may issue as many temporary certificates as it deems necessary.

(d) Each certification period, which may include the issuance of one or more temporary certificates or one regular certificate, shall be two years.

1. In determining the expiration date of the first regular certificate of approval, the Bureau shall compute the two-year approval period from the date of issuance of the first temporary or regular certificate.

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

(e) The certificate of approval shall be issued to a specific facility and shall not be transferable.

(f) The facility shall maintain its certificate of approval on file.

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

### 10:127-2.3 Denying, suspending, revoking or refusing to renew a certificate of approval

(a) The Bureau 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 chapter;
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 Division with files, reports, or records as required by this chapter;

5. Refusal to permit an authorized representative of the Division to gain admission to the facility or to conduct an inspection or investigation;

6. Any activity, policy, or staff conduct that adversely affects or is deemed by the Bureau to be detrimental to the education, health, safety, well-being or treatment needs of children or that otherwise demonstrates unfitness by the director or staff members of the facility to operate a residential child care facility;

7. Failure of an out-of-State facility to maintain a license, approval or certificate in its own state; and

8. Failure by the 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. 10:127-5.1(b)1, Criminal History Record Information background checks, as specified in N.J.A.C. 10:127-5.6, or Child Abuse Record Information background checks, as specified in N.J.A.C. 10:127-5.7;

9. Refusal by the director 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. 10:127-5.6(e);

13. A substantiated allegation of child abuse or neglect against the director; and

14. Conviction by the director for a crime or offense requiring disqualification, as specified in N.J.A.C. 10:127-5.6(e).

(b) The Bureau shall provide written notice to the facility if it intends to deny, suspend, revoke or refuse to renew its application for a certificate. This notice shall specify the Bureau's reasons for such action and the need for the facility to come into compliance prior to such action being taken.

(c) If the Bureau denies, revokes, or refuses to renew a certificate of approval, as specified in (a) above, the facility 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 facility may submit to the Bureau a new application for a certificate.

(d) If a certificate is suspended, the Bureau shall issue or reinstate the certificate once the facility achieves compliance with the provisions of this chapter. In such a case, the Bureau shall not require the facility 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 Bureau to a facility remains the property of the State of New Jersey. If the Bureau suspends or revokes a certificate of approval, the facility shall return the certificate of approval to the Bureau 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 8 and added 9 through 14.

#### 10:127-2.4 Administrative hearings

(a) If a facility fails to comply with all applicable provisions of this chapter, the Bureau shall issue a directive ordering compliance. Prior to the Bureau's decision to deny, suspend, refuse to renew or revoke a facility's certificate of approval, the facility 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 Division determines that children are not at risk and that no imminent dangers exist, the Bureau may permit a facility 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.

#### 10:127-2.5 Complaints

(a) Whenever the Bureau receives a report questioning the approval status or compliance of a facility or alleging a violation of this chapter, the Bureau shall ensure that the allegation is promptly investigated to determine whether the complaint is substantiated.

(b) If a serious complaint is received that alleges imminent hazard or risk to the health, safety and welfare of the children, the Bureau shall investigate the complaint within 24 hours.

(c) After the report of the investigation has been completed, the Bureau shall notify the facility 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.

(d) Whenever the Division, through its Bureau of Licensing, Institutional Abuse Investigation Unit or District Offices, conducts complaint investigations, the facility shall cooperate with all Division investigators.

#### 10:127-2.6 Public access to the Bureau's licensing records

Licensing files maintained by the Bureau are public records and shall be readily accessible for examination by any person, under the direction and supervision of the Bureau, 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.

### SUBCHAPTER 3. ADMINISTRATION

#### 10:127-3.1 Statement of purpose

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

1. The facility'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 facility and those provided in cooperation with community agencies or outside individuals;
4. Procedures for implementing those services; and
5. Criteria for completion of the program.

(b) The facility shall give this statement of purpose to the parents of the children being considered for services, and shall make it available to all staff members.

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

#### 10:127-3.2 Rights of children

(a) The facility shall prepare a list of children's rights and shall post it in prominent locations in the facility, including in each living unit, or give it to the children and document such in each child's record. The list shall comply with the applicable provisions of N.J.S.A. 9:6B-1 et seq., the Child Placement Bill of Rights Act. 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 with the Division and other professional persons or agencies.

(b) The facility shall give this list of children's rights to the parents of the children being considered for admission and shall make it available to all staff members.

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

(d) If the facility chooses to develop a search and seizure policy, the facility shall give all children, staff and parents a copy of this policy, as specified in N.J.A.C. 10:127-6.15.

(e) The facility 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 and concerns about procedures, care and specific incidents. The facility shall not take or threaten to take retaliatory or disciplinary action of any kind against a child who uses the grievance procedure. The facility shall provide a procedure to explain the above to children who are developmentally disabled, unable to read or unable to hear.

#### Case Notes

Student's right to attend community day nursery was voided by student's withdrawal and enrollment in another day care program. D.Y. v. Bayonne Community Day Nursery, 94 N.J.A.R.2d (DYF) 1.

#### 10:127-3.3 Information to parents and staff members

(a) The facility 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 facility is required to:

1. Secure a certificate of approval to operate from the Bureau 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 Bureau of Licensing, Division of Youth and Family Services, CN 717, Trenton, New Jersey 08625-0717;
5. Afford parents the opportunity and time to review and discuss with the facility 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 facility is in violation of any provision of the manual, they may report such alleged violations to the Bureau;
7. Make available, upon request, for parents' review the Bureau's Inspection/Violation and Complaint Reports on the facility, as well as any letters of enforcement or other actions taken against the facility during the current certificate of approval period;
8. Inform parents that they shall be provided a copy of the facility's behavior management policy, including

policies for searches, as specified in N.J.A.C. 10:127-6.13 and 6.15;

9. Inform parents that the facility is required to provide the child's parents with copies of the facility's visitation and communication policies, a copy of the procedures 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 facility 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 facility or not, is required by State law to report such allegations to the Division's Office of Child Abuse Control, TOLL FREE in New Jersey at 1-800-792-8610, or for out-of-State calls use (609) 292-8799 or any District Office 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;

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

13. Inform parents that the facility will develop a visitation schedule for parents and children, as specified in N.J.A.C. 10:127-6.6, 9.20 and 10.13.

(b) The facility 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. If the parents cannot be reached or refuse to sign the document after repeated requests, the facility shall document in the record the attempts made to secure the parent's signature.

#### 10:127-3.4 Community participation

(a) Each facility shall have a governing board that is responsible for establishing and assuring the facility's mission, planning, and policies for finances, personnel, development and public relations. The governing board shall also be responsible for the facility's compliance with applicable laws and requirements. Such a board shall include representatives from the civic, business or educational community.

(b) The governing board shall meet at least every six months. The facility shall keep on file a list of current membership of the governing board and a record of its meetings.

#### 10:127-3.5 Conflict of interest

(a) Each facility receiving funds from the Division shall adopt a written conflict of interest policy, as required by the facility's contract with the Department of Human Services.

1. The facility 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 facility.

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

#### 10:127-3.6 Intake and admissions

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

(b) For all placements, the facility 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 person(s) with whom the child was living at the time of admission;
3. The name, address, and telephone number of the child's 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 Division's District 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;
9. A Social Security Number, if available; and
10. A statement signed by the parent(s) or legal guardian, granting consent for emergency medical or surgical care, semi-annual dental care and annual physical examinations for the child.

(c) For all placements, the facility 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 facility is unable to obtain the information specified in (c) above within 30 calendar days of the child's admission, the facility shall document in the child's file its efforts to obtain such information.

(e) Immediately following the child's admission, the facility 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. 10:127-3.2, discipline policy and search and seizure policy, if any; and

3. Inform each child of fire exits and evacuation procedures.

#### 10:127-3.7 Reporting requirements

(a) The director or any staff member shall notify verbally the Office of Child Abuse Control or District Office 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, upon request.

(b) The facility shall notify the Bureau verbally of any of the following changes or events by the next working day after the facility learns of their occurrence, to be followed by written notification to the Bureau 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 facility or in the care of a staff member or volunteer;
3. Temporary or permanent closing of the facility; and
4. Any criminal conviction of a staff member, as specified in N.J.A.C. 10:127-5.1(b).

(c) The facility shall notify the Bureau verbally of any of the following changes or events by the next working day after the facility learns of their occurrence:

1. The occurrence of a reportable disease, as specified in Chapter II of the State Sanitary Code, codified at N.J.A.C. 8:57;
2. Proposed relocation of the facility to a site not approved by local municipal officials and the Bureau, as specified in N.J.A.C. 10:127-4.1;
3. Damage to the premises of the facility caused by fire, accident or the weather; and
4. Proposed use of space involving rooms not approved by the Bureau, as specified in N.J.A.C. 10:127-4.1(a)5.

(d) The facility shall notify the Bureau in writing at least 30 calendar days before any of the following proposed changes or events:

1. The anticipated closing or relocation of the facility for any reason other than temporary closings for holidays and vacations;
2. A change or anticipated change of director of the facility;
3. A change of type of children served; or
4. A change of services offered.

(e) The facility shall notify the Division or the appropriate District Office and the child's parents within 24 hours of any unauthorized absence of a child from the facility. For out-of-state facilities, the phone number of the Office of Child Abuse Control is 1-609-292-8799.

Administrative Correction.  
See: 25 N.J.R. 4932(c).

#### 10:127-3.8 Records

(a) The facility's records shall be open for inspection by authorized representatives of the Bureau, the Division's Institutional Abuse Investigation Unit (IAIU), the Division's contracting units and Division case managers provided that they may only secure information about children under the Division's supervision. The facility's records shall also be open to inspection by other agencies pursuant to applicable Federal and state laws, requirements or court order.

(b) Each facility shall maintain on file the following administrative records until the expiration of its regular certificate of approval:

1. The following records shall be maintained in files located at the facility:

- i. A copy of this chapter;
- ii. A statement of purpose, as specified in N.J.A.C. 10:127-3.1 and 9.1;
- iii. The Life/Safety and Program Inspection/Violation reports and Complaint Investigation Summary reports from the Bureau, if applicable, as well as letters of enforcement or other actions taken against the facility, if applicable, that cover the current certificate of approval period;
- iv. The document providing information to parents, as specified in N.J.A.C. 10:127-3.3(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. 10:127-3.3(b)1;
- vi. Documentation of the use of extermination services, if applicable, as specified in N.J.A.C. 10:127-4.3(a)7;
- vii. Policies and procedures regarding behavior management, as specified in N.J.A.C. 10:127-6.13, 6.14 and 10.14;
- viii. A record of in-service training conducted for staff members, as specified in N.J.A.C. 10:127-5.4 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. 10:127-6.13, 7.3(b) and 9.3(a) and (b);

- x. A copy of the comprehensive health plan, as specified in N.J.A.C. 10:127-7.1, 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. 10:127-6.11 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. 10:127-5.2(a)10;
  - xiii. A record of signed parental consent for children's participation in fund-raising, publicity, photography, or audiovisual activities related to the facility, as specified in N.J.A.C. 10:127-3.3(a)12;
  - xiv. A copy of the children's grievance procedures, as specified in N.J.A.C. 10:127-3.2(e);
  - xv. A record of signed parental consent for medical treatment for each child, as specified in N.J.A.C. 10:127-3.6(b)10;
  - xvi. A daily log book, in which an on-duty staff member shall comment on the activities and events of each day and staff member response to those events, as specified in N.J.A.C. 10:127-5.2;
  - 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, as specified in N.J.A.C. 10:127-5.2;
  - xviii. A copy of the staff members' work schedules and time sheets, as specified in N.J.A.C. 10:127-5.2;
  - xix. A medication log book, as specified in N.J.A.C. 10:127-7.4, 7.5 and 10.20;
  - xx. A written daily schedule of planned recreational, leisure time and physical exercise activities, as specified in N.J.A.C. 10:127-6.8(b) and 10.11;
  - xxi. A record of pet vaccinations and the name and address of the licensed veterinarian providing care for the pets, if applicable, as specified in N.J.A.C. 10:127-6.12;
  - xxii. A copy of the parenting education curriculum, if applicable, as specified in N.J.A.C. 10:127-10.8;
  - xxiii. Documentation of the information received from the National Weather Service and park service, if applicable, as specified in N.J.A.C. 10:127-9.1(n) and (o);
  - xxiv. A copy of the plan for emergency evacuation procedures, if applicable, as specified in N.J.A.C. 10:127-9.2(a);
  - xxv. A copy of the plan for search and rescue procedures, if applicable, as specified in N.J.A.C. 10:127-9.2(b);
  - xxvi. Copies of biking permits, if applicable, as specified in N.J.A.C. 10:127-9.4(a);
  - xxvii. Documentation that permission was obtained to enter a cave from the owner or public authority, if applicable, as specified in N.J.A.C. 10:127-9.6(c);
  - xxviii. Documentation of the care of horses, if applicable, as specified in N.J.A.C. 10:127-9.8(d);
  - xxix. Documentation on the safety of ropes used in climbing, if applicable, as specified in N.J.A.C. 10:127-9.9(d);
  - xxx. A copy of the plan for boating activities, if applicable, as specified in N.J.A.C. 10:127-9.10(b);
  - xxxi. Copies of all permits, certificates or licenses for camping, if applicable, as specified in N.J.A.C. 10:127-9.15(a);
  - xxxii. A copy of the policy for treating snake, animal and insect bites and contact with poisonous plants, if applicable, as specified in N.J.A.C. 10:127-9.17(c);
  - xxxiii. A copy of the plan and procedures that enable children to receive an emergency message, and send and receive mail, if applicable, as specified in N.J.A.C. 10:127-9.20(c);
  - xxxiv. Documentation that children were permitted to make free telephone calls, if applicable, as specified in N.J.A.C. 10:127-9.20(e);
  - xxxv. A copy of the policy for visiting and communication for parents, if applicable, as specified in N.J.A.C. 10:127-9.20(g); and
  - xxxvi. A copy of the feed plan for horses, if applicable, as specified in N.J.A.C. 10:127-9.8 and 9.16.
2. The following records shall be maintained in files located either at the facility's administrative office or at the facility:
- i. A record of comprehensive general liability insurance, as specified in N.J.A.C. 10:127-3.9;
  - ii. A record of performance of required monthly fire drills and/or evacuation drills, as specified in N.J.A.C. 10:127-4.5(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. 10:127-5.4(a)3;
  - iv. A copy of the facility's vehicle insurance policy, as specified in N.J.A.C. 10:127-8.2; and
  - v. Transportation records, if transportation is provided to children residing in the facility, as specified in N.J.A.C. 10:127-8.4.
3. For all facilities whose programs are primarily adventure based, the following records shall be maintained on location:
- i. A copy of this chapter;

ii. The Life/Safety and Program Inspection/Violation Reports and Complaint Investigation Summary Reports from the Bureau, if applicable, as well as letters of enforcement or other actions taken against the facility, if applicable, that cover the current certificate of approval period;

iii. Policies and procedures regarding behavior management, as specified in N.J.A.C. 10:127-6.13, 6.14 and 10.14;

iv. 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. 10:127-6.13, 7.3(b) and 9.3(a) and (b);

v. Copies of menus of food served to the children, including special diets, as specified in N.J.A.C. 10:127-6.11 and 10.24;

vi. A record of signed parental consent for children's participation in fund-raising, publicity, photography, or audiovisual activities related to the facility, as specified in N.J.A.C. 10:127-3.3(a)12;

vii. A record of signed parental consent for medical treatment for each child, as specified in N.J.A.C. 10:127-3.6(b)10;

viii. A daily log book, in which an on-duty staff member shall comment on the activities and events of each day and staff member response to those events, as specified in N.J.A.C. 10:127-5.2;

ix. A copy of staff members' work schedules and time sheets, as specified in N.J.A.C. 10:127-5.2;

x. A medication log book, as specified in N.J.A.C. 10:127-7.4, 7.5, and 10.20;

xi. A written daily schedule of planned recreational, leisure time and physical exercise activities, as specified in N.J.A.C. 10:127-6.8(b) and 10.11;

xii. A copy of the plan for emergency evacuation procedures, as specified in N.J.A.C. 10:127-9.2(a); and

xiii. A copy of the plan for search and rescue procedures, as specified in N.J.A.C. 10:127-9.2(b).

(c) The facility 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 facility:

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

i. Applications for employment, with disclosure statement(s), as specified in N.J.A.C. 10:127-5.1(b) and 9.18;

ii. References on the director and staff members, as specified in N.J.A.C. 10:127-5.1(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. 10:127-3.3(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. 10:127-3.3(b);

v. Health information, as specified in N.J.A.C. 10:127-7.7; and

vi. Documentation of completion of a Criminal History Record Information background check, as specified in N.J.A.C. 10:127-5.6, and a Child Abuse Record Information background check, as specified in N.J.A.C. 10:127-5.7.

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

i. Current staff member attendance sheets;

ii. Reasons for discontinuance of employment, if applicable, as specified in N.J.A.C. 10:127-5.1;

iii. 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. 10:127-5.1(b) and 9.18;

iv. Documentation that every staff member received and reviewed a copy of the facility's statement of purpose, grievance policy, children's bill of rights, firepolicy, search and seizure policy, and information to parents statement, as specified in N.J.A.C. 10:127-3.1(b), 3.2(b) to (d), 3.3(b) and 4.4(c)6;

v. A written annual performance evaluation, as specified in N.J.A.C. 10:127-5.2; and

vi. Documentation of training received by staff members, as specified in N.J.A.C. 10:127-5.4 and 10.3.

(d) The facility shall maintain on file the following children's records during the child's placement at the facility and for at least three years following the discharge of the child:

1. Identifying information, as specified in N.J.A.C. 10:127-3.6(b) and (c);

2. A copy of each treatment plan developed for the child, as specified in N.J.A.C. 10:127-6.1, and a copy of the case management plan for facilities that serve pregnant and parenting adolescents, as specified in N.J.A.C. 10:127-10.4;

3. Education records, as specified in N.J.A.C. 10:127-6.7;

4. 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. 10:127-6.13, 6.14 and 6.15;

5. Reports of accidents, as specified in N.J.A.C. 10:127-7.3 and 9.3(a) and (b);

6. Documentation of the opening of a child's mail by facility staff, as specified in N.J.A.C. 10:127-6.6;

7. Medical records, as specified in N.J.A.C. 10:127-7.2 and 9.17(a) and (b);

8. Explanations of medical treatment, as specified in N.J.A.C. 10:127-10.19;

9. A discharge summary, as specified in N.J.A.C. 10:127-6.2 and 10.5;

10. An aftercare plan, as specified in N.J.A.C. 10:127-6.2 and 10.5;

11. An infant's feeding schedule, as specified in N.J.A.C. 10:127-10.24;

12. Documentation that an adolescent mother received life skills development training, as specified in N.J.A.C. 10:127-10.25; and

13. Documentation that a child received information on adventure activities, as specified in N.J.A.C. 10:127-9.1(c).

(e) The facility shall ensure the confidentiality of the records for each child enumerated in (d) above, in accordance with New Jersey State law, including N.J.S.A. 9:6-8.10(a) covering abuse and neglect information. The facility 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.

Administrative Correction.

See: 25 N.J.R. 4932(c).

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

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

Added (c)vi.

### 10:127-3.9 Comprehensive general liability insurance

The facility shall secure comprehensive general liability insurance coverage and shall maintain on file a copy of the insurance policy.

## SUBCHAPTER 4. PHYSICAL FACILITY REQUIREMENTS

### 10:127-4.1 Physical facility initial approval requirements for all facilities located in New Jersey

(a) An applicant seeking an initial certificate of approval, as specified in N.J.A.C. 10:127-2.1, to operate a facility located in New Jersey 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 facility shall submit to the Bureau a copy of a Certificate of Occupancy (CO) issued by the municipality in which it is located, reflecting the facility'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 16 children; or

ii. I-1 (Institutional) for buildings accommodating 16 or more children over 2½ years of age; or

iii. I-2 (Institutional) for buildings accommodating six or more children who are under 2½ years of age.

2. For facilities that are planning to construct a new building, the facility shall submit to the Bureau:

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 Bureau before the facility can open.

3. For buildings constructed after the adoption of the NJUCC (1977), whose construction code use group classification is already R-2, I-1 or I-2 and that have not had major alterations or renovations since receipt of the CO, the facility 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, I-1 or I-2 use group classification. The facility shall submit a copy of the building's CO to the Bureau.

4. For existing buildings, whose use prior to the adoption of the NJUCC (before 1977) was and continues to be for a children's residential facility and that have not had major alterations or renovations, the facility 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 facility. The facility shall submit a copy of the building's CCO or letter reflecting the building's compliance to the Bureau.

5. The facility 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 Bureau 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 facility is located;
- iii. Increases the floor area or the number of stories to the building or premises where the facility is located; or
- iv. Relocates to another site.

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

i. When the Bureau does not accept the variation, the non-acceptance shall be based on the best interests of the residents of the facility, and shall include consideration for their health and safety.

ii. Should the facility disagree with the Bureau, the facility may seek a hearing in accordance with N.J.A.C. 10:127-2.4(a) and the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1, as implemented by the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) An applicant seeking an initial approval, as specified in N.J.A.C. 10:127-2.1, to operate a facility shall comply with all applicable provisions of the New Jersey Uniform Fire Code, as specified in N.J.A.C. 5:18, 18A and 18B and hereinafter referred to as the NJUFC. The facility 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 facility's compliance with all applicable provisions of the NJUFC. The facility shall submit a copy of the building's fire safety inspection certificate to the Bureau.

(c) An applicant seeking an initial approval, as specified in N.J.A.C. 10:127-2.1, to operate a facility shall comply with all applicable provisions of the State Sanitary Code, as specified in N.J.A.C. 8:24. The facility 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 facility complies with applicable provisions of local, county and State health codes and poses no health hazard to the children served. The facility shall submit a copy of the certificate or statement of satisfactory health approval to the Bureau.

(d) An applicant seeking the renewal of a certificate of approval to continue operating a facility shall obtain and submit to the Bureau, 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 facility.

#### **10:127-4.2 Physical facility initial approval requirements for all facilities located outside of New Jersey**

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

(b) All facilities 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. 10:127-4, with the exception of N.J.A.C. 10:127-4.4(c), (f) 3, (g), (h), (i), and (l).

#### **10:127-4.3 Maintenance and sanitation requirements for all facilities**

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

1. The facility 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 facility 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 facility shall maintain on file a record documenting the use of extermination services in these cases;
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 substances are stored in a locked cabinet or in an enclosure located in an area not accessible to children. Bleaches, detergents, polishes and specific aerosol products may be made available to children 12 years of age and older with facility supervision;

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 facility 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. All fencing or other natural or man-made barriers or enclosures, shall be maintained in proper condition.

(c) The Bureau shall also require the facility to take whatever steps are necessary to correct any conditions in the facility that may endanger in any way the health, safety and well-being of the children served.

**10:127-4.4 Additional maintenance and sanitation requirements for all facilities located in New Jersey**

(a) The facility 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 facility, 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; and

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

(b) The facility 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; and

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

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

1. The use of a fireplace for the children served by the facility shall not pose a serious risk of fire hazard to occupants of the facility, 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 facility shall obtain a copy of these certificates or statements of approval and submit them to the Bureau;

4. The facility 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 specified 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 specified in (c)4 above shall be maintained on file by the facility and reviewed by all staff members and children in the facility.

(d) The facility 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 clean and free from obstructions and filters shall be replaced when saturated.

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

(f) Facilities 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, the Barrier-free Subcode of the NJUCC.

(g) The facility shall not use lead paint on and shall remove lead paint from any interior or exterior surfaces of a building used as a facility, 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 facility not specified in N.J.A.C. 8:51-7, the Bureau 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 facility shall remove the lead paint hazard.

(h) The facility shall not use spray coatings containing asbestos on any interior or exterior surfaces of the facility 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 determines the presence of sprayed-on asbestos-containing materials, and concludes that corrective action must be taken to minimize exposure potential, the facility shall follow the recommendation of the State Health Department for enclosure, removal or other appropriate action to remove the threat or risk of asbestos contamination.

(i) The facility 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 facility 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 facility 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 facility. These facilities shall not be located more than one floor from any bedroom; and

2. A supply of hot tap water not exceeding 110 degrees Fahrenheit and cold running water is provided.

(l) A facility 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 XII, State Sanitary Code, as codified at N.J.A.C. 8:24.

(m) The facility shall obtain prior approval from the Bureau for all space used by the children.

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

(o) The facility 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.

**10:127-4.5 Emergency evacuation instructions, medical emergencies, fire prevention, first aid and equipment**

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

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

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

1. The name, address and telephone number of the physician retained by the facility 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 centers; and
6. The location of the first aid kit and any additional first aid supplies.

(c) The facility shall prepare written fire prevention instructions, which specify that:

1. The facility 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;
  - i. Fire drills shall be conducted on all shifts; and
  - ii. Evacuations should be completed within three minutes. If evacuations are not completed within three minutes, the facility should contact its local fire official for assistance with improving its evacuation time.

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

- i. The date and time of the drill;
- ii. The weather condition at the time of evacuation;
- iii. A notation of any problems encountered during the drill;
- iv. The number of participating children and staff members;
- v. The total amount of time taken to evacuate the facility; and
- vi. The signature of the staff members conducting the drill.

3. Each facility shall ensure that fire protection requirements, including those for boiler/furnace separation, electrical fire alarm systems, emergency lighting and exit signs conform to all applicable provisions of the NJUFC and the NJUCC; and

4. The facility 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.

**10:127-4.6 Prohibition on the use of tobacco products**

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

(b) The facility shall ensure that staff members comply with the provisions of N.J.S.A. 2A:170-51, which prohibits any person from directly or indirectly selling, giving or furnishing to a minor under 18 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 facility shall maintain a smoke-free environment in all buildings on the facility premises and in all vehicles used to transport children.

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

Amended by R.1998 d.413, effective August 17, 1998.  
See: 30 N.J.R. 1494(a), 30 N.J.R. 3055(a).

Rewrote the section.

## SUBCHAPTER 5. STAFF REQUIREMENTS

**10:127-5.1 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 facility or dealing with children, as applicable.

(b) Prior to hiring or utilizing a director or a staff member who will be working at the facility, the facility 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. The employment application shall be updated to indicate the reasons for discontinuance of employment, if applicable;

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 facility; and

3. Documentation from the Department showing compliance with a Criminal History Record Information background check, as specified in N.J.A.C. 10:127-5.6, and a Child Abuse Record Information background check, as specified in N.J.A.C. 10:127-5.7, for the director and each staff member.

(c) Failure by the director or other staff member to comply with the requirements 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 by the governing board;
2. Reassignment to other duties that do not involve contact with children;
3. Termination from the facility; or
4. Denial, refusal to renew, suspension or revocation of the facility's certificate of approval by the Bureau.

(d) The facility shall disclose to the Bureau, 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 facility either by the Bureau 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 facility to secure a certificate of approval for another or the same facility, but shall constitute grounds for the Bureau 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 Division's Office of Child Abuse Control or appropriate District Office 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 other than the child's parent or family member, pursuant to the State Child Abuse and Neglect Law (N.J.S.A. 9:6-8.9, 8.10, 8.13 and 8.14). This provision shall also apply to facilities located outside of New Jersey, notwithstanding the child abuse and neglect provisions of the state in which the facility is located;

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

3. When reporting to the Division as specified in (g)1 above, the facility shall also notify the parent(s) of the incident(s) reported which might indicate possible abuse or neglect involving the child. Such notification shall be made on the same day on which the incident(s) occurred. The facility shall maintain on file a record of such incident(s) and documentation that the parent(s) have been informed of them;

4. The Division, 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 Division's Institutional Abuse Investigation Unit (IAIU) to pose a risk of harm to children;
- 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 governing board or director shall carry out the Division'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 member from the facility or reassignment to other duties that do not involve contact with the children; or
- ii. When the director or staff member resides at the facility, 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 Division's investigation have been determined, and a final decision in the matter has been rendered by the Division; and

7. If an allegation of child abuse or neglect is substantiated against the director or a staff member, the facility shall immediately terminate the individual's employment at the facility. If an allegation of child abuse or neglect is substantiated against the director, the Division shall deny, suspend, revoke or refuse to renew the certificate of approval, as applicable. The facility may appeal the denial, suspension, revocation or refusal to renew to the Division, as specified in N.J.A.C. 10:127-2.4.

(f) The facility 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 medical, dental, and psychological needs of the children are met; and
2. Be licensed to practice in the state where the staff member or community provider is located, as 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 3; 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).

### 10:127-5.2 Staff qualifications

(a) Residential child care facilities shall have a full-time administrator or director, social service staff, teaching staff members (if the facility provides an on-grounds educational program), medical and nursing staff, child care staff, a staff member(s) designated to plan and implement the facility's recreational program, a staff member(s) designated to direct and be responsible for food services, and staff who shall be responsible for daily housekeeping and maintenance.

(b) The full-time administrator or director of the facility 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 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 facilities, 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 facility, including the facility'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/or other responsibilities;

6. Be responsible for ensuring that all staff members receive an annual performance evaluation;

7. Be responsible for ensuring that all staff members' work schedules and time sheets are maintained;

8. Be responsible for ensuring that a daily log book, separate log book, or the child's case record contains a written notation of all visits to children;

9. Be responsible for ensuring that on-duty staff members complete entries in the daily log book that reflect the activities and events of each day;

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

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

(c) The social services/clinical director of the facility 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 related field from an accredited college or university and three years of professional clinical experience in the human services field, one year 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 two years of professional experience in the human services field;
  - iii. For publicly operated facilities, 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. Ensure that any staff member or consultant that utilizes the title or designation of social worker, licensed clinical social worker, licensed social worker, certified social worker or any abbreviations such as LCSW, LSW or CSW, is certified or licensed as specified in N.J.A.C. 13:44G-4.1 and 4.2;
- i. All facilities located in a state other than New Jersey shall ensure that social work staff and social work supervisors are certified or licensed pursuant to that state's laws or requirements, if applicable;
4. Be responsible for the overall treatment planning for children;
5. Provide support and technical assistance to the social services staff;
6. Provide clinical supervision to staff and ensure that social services staff receive job performance evaluations; and
7. If qualified under (c)2i or ii above, not supervise a licensed clinical social worker, licensed social worker or certified social worker.
- (d) Each social worker or staff member who provides social services shall:
1. Be at least 21 years of age;
  2. Provide services for children as outlined in the treatment plan; and
  3. Have one of the following qualifications:
    - i. A bachelor's degree in social work, psychology or related field from an accredited college or university and one year of professional experience in the human services field, but does not meet the qualifications in (c)2iv and v above and provides services as specified in (d)2 above shall:
      - (1) Only provide social work services in the course of employment with the facility;
      - (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; or
      - (4) Not use any title or name, the use of which is restricted by section 4 of P.L. 1991, c.134, the Social Worker's Licensing Act; or
    - ii. A master's degree from an accredited graduate school in social work, psychology, or a related field, but does not meet the qualifications in (c)2iv and v above and provides services as specified in (d)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; or
      - (3) Not use any title or name, the use of which is restricted by section 4 of P.L. 1991, c.134, the Social Worker's Licensing Act; or
    - iii. Meet the requirements of the State Department of Personnel for the position, if applicable.
- (e) The child care director of the facility shall:
1. Be at least 21 years of age;
  2. Have one of the following qualifications:
    - i. A bachelor's degree in the human services field from an accredited college or university and three years of professional experience in the human services field, two years of which shall have been in a supervisory or administrative position in a residential child care facility, group home or children's shelter;
    - ii. A master's degree from an accredited graduate school in the human services field and one year of professional experience in the human services field in a residential child care facility, group home or children's shelter; or
    - iii. For publicly operated facilities, meet the requirements of the State Department of Personnel for the position, if applicable;

3. Be responsible for the daily operation of the child care program; and

4. Ensure that all child care staff receive job performance evaluations.

(f) Each child care staff member 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. 10:127-6.1 and 6.2; 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) Each staff member designated to plan and implement the facility's recreational program shall:

1. Be at least 21 years of age;

2. Meet the qualification(s) for child care staff as specified in (f) above; and

3. Have at least three years experience in planning or implementing recreational activities for children in residential child care centers, group homes, children's shelters, children's camps or Boy Scouts/Girl Scouts.

(h) Education staff of the facility including administrative, supervisory and teaching staff shall comply with the staff qualifications, certifications, licenses and experience requirements of the New Jersey Department of Education or the equivalent agency in the state where the facility is located.

(i) Each physician, nurse, dentist, psychologist, speech therapist, physical therapist and occupational therapist employed by the facility or providing services on a contracted basis to the facility shall:

1. Be licensed/credentialed to practice in the state where the staff member or community provider is located, if required by the laws of that state; and

2. Be responsible for ensuring that the needs of the children for medical, dental, psychological, psychiatric or other services are met.

(j) Each staff member designated to direct and be responsible for providing food services shall:

1. Be registered or eligible for registration by the Commission on Dietetic Registration of the American Dietetic Association or meet the applicable requirements established by the state where the facility is located;

2. Meet the requirements of the Child Nutrition Program;

3. Have a bachelor's degree from a college or university with a major in foods, nutrition, food service or institution management, or the equivalent course work for a major in the subject area; and have completed a dietetic internship accredited by the American Dietetic Association or a dietetic traineeship approved by the American Dietetic Association or have one year of full-time, or full-time equivalent, experience in nutrition and/or food service management in a health care setting;

4. Have a master's degree plus six months of full-time, or full-time equivalent, experience in nutrition and/or food service management in a health care setting; or

5. Develop a plan approved by a dietician or dietary consultant who meets the qualifications specified in (j)1 through 4 above.

Administrative Correction.

See: 25 N.J.R. 4932(c).

Amended by R.1998 d.413, effective August 17, 1998.

See: 30 N.J.R. 1494(a), 30 N.J.R. 3055(a).

In (b), added iv and v in 2, and added 11; in (c), added iv and v in 2, rewrote 3, and added 7; and in (d), rewrote 3i and ii.

### 10:127-5.3 Staff to child ratios

(a) Each residential child care facility shall meet the following staff to child ratios:

1. The facility shall have a social services/clinical director when its capacity is more than 80 children;

2. The facility shall have a child care director when its capacity is more than 50 children;

3. There shall be at least one social services worker for every 20 children;

4. There shall be at least one full-time nurse at a facility that serves at least 35 children. A facility that serves fewer than 35 children shall have at least access to a part-time nurse;

5. There shall be at least one child care staff member for every six or fewer children during the waking hours;

6. During sleeping hours, there shall be at least one child care staff member in each living unit in the facility and at least one additional staff member awake and on-duty for each 50 children or fraction thereof, in the facility; and

7. There shall be at least one child care staff member awake and on-duty in living units that are co-educational during sleeping hours.

(b) A facility that has a capacity of 30 or fewer children may utilize the administrator/director of the facility to serve as the director of one other program area, provided that such person meets the qualifications for that position.

#### 10:127-5.4 Staff training and development

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

1. The facility's statement of purpose, as specified in N.J.A.C. 10:127-3.1;

2. The facility's behavior management policy and search and seizure policy, if any, as specified in N.J.A.C. 10:127-6.14 and 6.15;

3. Emergency procedures, as specified in N.J.A.C. 10:127-4.5(a), (b) and (c);

4. Protocols for medication, as specified in N.J.A.C. 10:127-7.4 and 7.5;

5. Infection control procedures, as specified in N.J.A.C. 10:127-7.8;

6. The facility's techniques for safe physical and mechanical restraint, if applicable, as specified in N.J.A.C. 10:127-6.13(i) and (k);

7. The facility's policy and procedures for utilizing a behavior management room, if applicable, as specified in N.J.A.C. 10:127-6.13(m); and

8. The facility's policy and procedures for utilizing exclusion, as specified in N.J.A.C. 10:127-6.13(j).

(b) The facility 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 facility.

(c) The facility 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 a total of 12 hours of training each year in the following areas:

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

(d) The facility's training plan may include in-depth discussions at staff meetings, attendance at workshops, conferences or relevant college courses.

#### 10:127-5.5 Volunteers and student interns

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

(d) The facility shall require an application, disclosure and references, as specified in N.J.A.C. 10:127-5.1(b)1 and 2, for volunteers and student interns who provide activities or transportation to a child by themselves.

(e) The facility 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. 10:127-5.1(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).

Added (e).

#### 10:127-5.6 Criminal History Record Information background checks

(a) As a condition of securing and maintaining a certificate, the facility 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.

(b) If the director refuses to consent to or cooperate in a CHRI background check, the Division shall deny, suspend, revoke or refuse to renew the certificate, as applicable. The facility may appeal the denial, suspension, revocation or refusal to renew, as specified in N.J.A.C. 10:127-2.4.

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

(d) If any person identified in (a) above has a record of criminal conviction, the Department of Human Services 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 or work at the facility.

(e) A person shall be disqualified from receiving a certificate or administering or working at a facility 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 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 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 facility 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 facility documents that the individual's employment or administration of the facility 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 facility shall identify restrictions regarding the individual's contact with, care or supervision of children;

4. The facility 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 or work at a facility 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 facility, indicating why the individual at issue should not

be precluded from administering or working at the facility, 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 facility with a criminal conviction other than those cited in (e) above.

4. For a current or prospective staff member with a criminal conviction other than those cited in (e) above, the facility director 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 facility 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 facility.

(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 facility to terminate the individual's employment, as applicable.

(j) Upon completion of the CHRI for an individual specified in (a) above, the Department shall notify the individual, and the facility 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 facility that the individual has been disqualified.

4. The facility shall immediately terminate the disqualified individual's employment at the facility.

5. If the disqualified individual is a facility director, the Division shall deny, suspend, revoke or refuse to renew the certificate, as applicable.

(k) A facility 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 facility seeking to employ that individual, if the facility 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 facility 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 facility 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 facility.

(l) A facility 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 facility 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).

#### **10:127-5.7 Child Abuse Record Information background checks**

(a) As a condition of securing and maintaining a certificate, the facility shall provide written consent to the Division from the director and each staff member for a Child Abuse Record Information (CARI) background check to be conducted.

(b) If the director refuses to consent to or cooperate in a CARI background check, the Division shall deny, suspend, revoke or refuse to renew the certificate, as applicable. The facility may appeal the denial, suspension, revocation or refusal to renew, as specified in N.J.A.C. 10:127-2.4.

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

(d) Upon receipt of written consent from an individual specified in (a) above, the Division 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 facility. 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 Division determines that an allegation of child abuse or neglect has been substantiated against an individual specified in (a) above, the facility shall immediately terminate the individual's employment at the facility.

(f) If the Division determines that an allegation of child abuse or neglect has been substantiated against a director, the Division shall deny, suspend, revoke or refuse to renew the certificate of approval, as applicable.

1. The facility may appeal the denial, suspension, revocation or refusal to renew, as specified in N.J.A.C. 10:127-2.4.

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

(g) If the Division determines that an allegation of child abuse or neglect has been substantiated against a staff member, the facility 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 facility 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).

#### **10:127-5.8 Background check procedures for New Jersey facilities**

(a) Prior to the opening of a new facility located in New Jersey, the facility shall ensure that a request for a Criminal History Record Information (CHRI) background check, as specified in N.J.A.C. 10:127-5.6, and a Child Abuse Record Information (CARI) background check, as specified in N.J.A.C. 10:127-5.7, is submitted for each person identified in N.J.A.C. 10:127-5.6(a) and 5.7(a).

(b) Prior to the first renewal of a certificate on or after March 26, 2004 for an existing facility located in New Jersey, the facility shall ensure that a request for a CHRI background check, as specified in N.J.A.C. 10:127-5.6, is submitted for the director and each staff member.

(c) Prior to each renewal of a certificate on or after March 26, 2004 for an existing facility located in New Jersey, the facility shall ensure that a request for a CARI background check, as specified in N.J.A.C. 10:127-5.7, is submitted for the director and each staff member.

(d) Within two weeks after a new staff member begins employment at a facility located in New Jersey, the facility shall ensure that a request for a CHRI background check, as specified in N.J.A.C. 10:127-5.6, and a CARI background check, as specified in N.J.A.C. 10:127-5.7, is submitted for the individual.

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

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

#### **10:127-5.9 Background check procedures for out-of-State facilities**

(a) For a facility located outside New Jersey, the facility 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 facility shall require that the director and each applicant or staff member 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 at the facility during the time children who are residents of New Jersey are placed in the facility.

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**

#### **10:127-6.1 Treatment plan for children in residential child care facilities**

(a) The facility 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 in order to assist the child in completing the program.

(b) The facility 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. Staff members representing the clinical and social work components;

2. Staff members representing the child care component;
3. Staff members representing the administration of the facility, if necessary;
4. Representatives from the child's responsible school district and/or current school district, if necessary;

5. The Division's case manager; and
6. The child's parent(s), unless there is an explicit legal or medical basis to exclude them.

(c) The facility 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) The facility shall develop the initial treatment plan within 30 calendar days following a child's admission, commence with the treatment plan for three months, then review or revise the treatment plan at least every six months thereafter.

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

1. The name of the child;
2. The date of the child's admission;
3. The date when the plan is developed or revised;
4. The names and titles of all persons attending the development or review meeting;
5. The child's social, familial, emotional, behavioral, and academic strengths and weaknesses;
6. A statement of who can and cannot visit the child (if applicable), and the reason(s) why;
7. Specific treatment goals and measurable objectives in each program area and projected time frames for completing each goal and objective;
8. The name of the staff member responsible for the implementation of techniques to be used to achieve each treatment goal and objective;
9. The techniques to be used to achieve each treatment goal and objective;
10. Criteria to be used to determine whether each treatment goal is achieved;
11. A notation of progress made from the previous plan;
12. 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
13. For children who are 14 years of age or older, how the child is being prepared for self-sufficiency. This information may be documented in the child's individual education plan (I.E.P.). The 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.

(f) The facility shall send to the Division's case manager or other placing agency a copy of the treatment plan and any 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 three years after the child's discharge.

(g) The facility 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 facility does not explain the child's treatment plan to the child's parents, the facility shall document in the child's case record the reasons why the plan was not explained to the parents.

#### 10:127-6.2 Discharge planning

(a) For discharges that can be anticipated, the facility 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 facility 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 facility, the facility shall notify the Division's

case manager or other placing agency by the next working day by telephone. The facility shall send a written discharge plan within 15 days after the child's discharge. This plan shall specify the information outlined in (b)1 through 5 above.

#### 10:127-6.3 Grouping of children within living units

The facility shall determine the composition and size of children's groups within the living units on the basis of the children's treatment needs, gender, age and level of functioning.

#### 10:127-6.4 Work and employment

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

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

(c) The facility's staff members may encourage children to hold part-time employment outside the facility, 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 facility may require a child to maintain specific academic and behavioral standards as a condition for seeking or maintaining employment.

2. The facility 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.

#### 10:127-6.5 Money and allowance

(a) The facility shall provide opportunities for all children to receive an allowance or to earn an allowance up to an amount as specified in their placement contract.

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

1. When a child damages the building or the facility's property, the facility shall identify the child who damaged the building or 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 shall have the option to make a lump sum payment for intentional damages, if deemed clinically appropriate and consistent with the child's treatment plan.

4. The facility may offer the child the option of performing additional chores in lieu of restitution payments.

Amended by R.1994 d.158, effective March 21, 1994.  
See: 25 N.J.R. 5751(a), 26 N.J.R. 1350(a).

#### 10:127-6.6 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 facility may curtail a child's contact with individuals after consultation with the Division or other placing agency if the facility:

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 facility shall develop a visiting policy and explain the visiting policy to the child and parents at intake. The visiting 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;

3. That visitors who appear to be under the influence of drugs or alcohol shall not be allowed to visit or to transport the child;

4. That the child may visit his or her Division case manager or other placing agency worker upon reasonable request and that these visits shall not be unreasonably denied; 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 facility shall meet the following requirements for the use of the telephone by children:

1. The facility shall permit reasonable access to a telephone by the child for telephone conversations with the Division's case managers or other professional persons or agencies.

i. The child shall not be charged a cost for these telephone calls; and

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

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

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

3. When the facility imposes restrictions on a child's access to telephone conversations with his or her parents, as specified in (c)2 above, the facility 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 facility shall develop and maintain on file a written policy governing the use of the telephone by children when they communicate with friends. The facility 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; and

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

(d) The facility 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. 10:127-6.15.

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

ii. The facility 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.

#### 10:127-6.7 Education

(a) Facilities located in New Jersey shall ensure that school-age children receive educational instruction to which they are entitled under provisions of Federal and State education laws and regulations.

(b) Facilities located in other states shall ensure that school-age children receive educational instruction to which they are entitled under provisions of education laws and regulations of the state in which they are located.

(c) Education shall be provided either in a public school or private educational institution in the community or in an approved on-grounds school operated by the facility.

(d) The facility shall ensure that any child who is legally not attending school is either gainfully employed or enrolled in a training program that teaches necessary life skills or methods of job acquisition.

(e) The facility shall provide or utilize on-grounds or community vocational education services appropriate to the age, skill level, interests and abilities of those children who require such services.

(f) Requirements for facilities operating on-grounds education programs are as follows:

1. The facility shall provide an education program that ensures instruction is given to each school-age child in all specific curriculum areas identified in the Individualized Education Plan, as required by Federal education law, or in the child's treatment plan; and

2. The facility shall inform the child's appropriate school district if its on-grounds education program cannot provide instruction in all specific curriculum areas, as specified in (f)1 above.

(g) Requirements for facilities using off-grounds education programs are as follows:

1. When the facility determines that the child is ready to attend a public or community school, the facility shall make efforts to place the child in that setting and document such efforts in the child's record; and

2. When a child attends school in the community, the facility shall maintain regular contact with the teachers

and other appropriate personnel concerning the child's progress.

(h) Requirements for facilities providing vocational programs are as follows:

1. A facility providing a vocational program shall ensure that the vocational services for a child include the following information:

- i. Vocational evaluation;
- ii. Formulation of vocational goals;
- iii. Development of a vocational training plan; and
- iv. Provision of skills training, employment counseling, job development and placement services or referral to appropriate sources providing these services.

(i) A facility with an on-grounds education program(s) shall maintain on file copies of all approvals and accreditations of its program and physical facilities from the department of education of the state in which it is located.

(j) The child's education record shall include:

1. Information used in the identification, classification and instruction of the child prior to developing a course of study or training to meet the child's academic or vocational needs, including records from the school district of residence and from previously attended residential facilities;

2. Initial and revised Individualized Education Plans, when legally required for the child;

3. Results of educational testing and evaluations of the child;

4. Reports of the child's academic functioning, completed at regular intervals;

5. A vocational training plan for the child; and

6. If the child attends school in the community, quarterly academic progress reports obtained from the community school.

#### 10:127-6.8 Recreation

(a) The facility shall plan or provide a balanced on-grounds and off-grounds recreation program. The recreation program shall include planned individual and group activities.

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

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

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

#### 10:127-6.9 Religion

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

(b) The facility shall ensure that each 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 facility shall ensure that each child is permitted to attend religious activities and services provided either in the community or on site, and the facility shall 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 facility shall not coerce or require children to participate in religious activities.

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

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

#### 10:127-6.10 Rest, bedroom and sleep

(a) The facility shall ensure that:

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

2. Each set of bunk beds:

i. Is limited to two in height;

ii. Has railings on the top bunk that are no more than 3½ inches from the top of the bed frame; and

iii. Has mattresses that are at least five inches from the top of the railing;

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

4. Each 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 do not share the same bedroom with an adult, unless the adult is their mother and they are in placement in a facility 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. Each 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 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 screens, curtains, blinds or shades.

#### 10:127-6.11 Food and nutrition for children

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

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

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

3. The facility shall prepare and date menus and keep the menus on file at the facility for a minimum of 90 calendar days.

4. The facility shall provide place settings and eating utensils for children.

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

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

(b) The facility shall ensure that the daily diet for each child includes a balance of foods from the four basic food groups.

1. The facility shall ensure that each meal contains a sufficient amount of food for each child.

2. The facility shall make available, as necessary, an alternate choice of food for each meal served for children on special diets or children who because of religious beliefs, cannot eat particular foods.

3. The facility shall follow individualized diets and feeding schedules that are submitted to the facility by the child's physician or registered dietician.

#### 10:127-6.12 Pets

(a) The facility shall ensure that pets kept by or located in the facility regardless of ownership, shall be:

1. Domesticated and non-aggressive;

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 facility, 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 facility 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 facility shall ensure that all pet dishes, food and equipment used for pets are kept out of the facility'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 facility shall take corrective action that is approved by the licensing agency.

(e) The facility shall ensure that pregnant adolescents are not permitted to clean a cat's litter box.

**10:127-6.13 Restrictive behavior management practices**

(a) Facilities 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 facility shall:

1. Obtain written approval from the Bureau for any restrictive behavior management practice that the facility plans to utilize prior to its 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 facility shall:

1. Explain to the parents, the child, and 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 all types of restrictive behavior management practices the facility uses from the child's parents.

(d) The facility shall ensure that the consent form is written in plain language and that either a translated version or an interpreter is available to explain it to non-English speaking or hearing impaired 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 facility 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

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 the other placing agency or through legal action, if necessary to protect the best interests of the child.

(f) The facility 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, the facility shall send a letter to the child's parents and to 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 restrictive behavior management practice; and

3. Invite them to the treatment planning meeting to discuss the child's program and treatment status. If they do not attend the treatment plan meeting, the facility shall send the parents a written summary of the treatment plan meeting and a copy of the child's treatment plan.

(h) The facility shall develop and maintain on file in the administrative office a policy indicating which restrictive behavior management practices the facility uses.

(i) Facilities 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 use only physical restraint techniques and holds, such as the basket hold or restraining the child in the prone position. These techniques and holds shall only be used 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, fracture, seizure disorder or other physical condition that would preclude the child from being restrained, unless the physician authorizes such techniques;

3. Ensure that a child is released from restraint as soon as he or she has gained control;

4. Document each physical restraint incident in an incident report that reflects the following:

i. The name of the child;

ii. Date and time of day the restraint occurred;

iii. Name of all staff members involved in the restraint;

iv. Precipitating factors that led to the restraint;

v. Other non-restraint interventions attempted;

vi. Time the restraint ended;

vii. Condition of the child upon release; and

viii. Medical review by the nurse or physician if injury to the child is suspected;

5. Ensure that all restraint incidents are:

i. Reviewed by a supervisory staff member within one working day after the incident; and

ii. Discussed with the staff member involved in the restraint when the restraint is deemed improper within one working day after the incident;

6. Ensure that staff members who are involved in the restraint of a child receive training in safe techniques for physical restraint; and

7. 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 or sitting on the chest or back of a child;

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.

(j) Facilities 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 is not engaging in 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 15 minutes and is within hearing distance of the child when the child is removed from the group;

5. Ensure that the facility does not utilize a closet, bathroom, unfinished basement, unfinished attic, 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;

7. Document each exclusion of a child in an incident report that reflects the following:

i. The name of the child;

ii. Date and time of day the exclusion occurred;

iii. Name of all staff members observing the child;

iv. Precipitating factors that led to the exclusion;

v. Other interventions attempted;

vi. Time the exclusion ended; and

vii. 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) Facilities that utilize mechanical restraint, in addition to taking the precautions listed for physical restraint in (i)1 through 7 above, shall:

1. Ensure that only leather restraints and soft handcuffs are utilized;

2. Discuss with the facility's staff physician or consulting physician the appropriateness of utilizing mechanical restraints with the child and secure the physician's initial approval before utilizing such restraint for the child;

3. Document in the child's treatment plan or record that other less restrictive practices have been considered and attempted before mechanical restraint was applied;

4. Ensure that staff utilizing mechanical restraints have received training in the administration of these restraints;

5. Instruct staff in the policies/procedures regarding the mechanical restraint, including the obligation to secure approval for each implementation of a mechanical restraint from the administrator and/or staff physician or consulting physician prior to implementing a mechanical restraint. Such approval shall be:

i. Documented in writing through signature by the administrator and/or staff physician or consulting physician; and

ii. Filed in the child's case record;

6. Ensure that the child is protected and handled in a manner which avoids injury when applying mechanical restraint;

7. Ensure that no more than one child is mechanically restrained in the same room or area at the same time;

8. Ensure that a staff member(s) remains at arm's length of the child and maintains visual contact at all times during the restraint or maintains visual contact utilizing a Bureau-approved television monitoring system;

9. Ensure that staff check the child's arms and legs every 15 minutes to prevent circulation problems;

10. Ensure that the child has access to toilet facilities;

11. Ensure that the child has access to all scheduled meals during the period restraints are being used;

12. Limit the use of mechanical restraint to no more than two consecutive hours and no more than four hours in a 24-hour period unless approval from a physician is obtained. The facility may request approval from the physician to exceed the time frame limitations for mechanical restraint when it appears that a child needs additional time to gain control of his or her behavior. A written copy of the physician's order to extend the time a child is placed in mechanical restraints shall be filed in the child's case record;

13. Have the child checked by a nurse or physician immediately afterward to ensure that the child has not suffered an injury. If a nurse or physician is not on grounds, the administrator on duty or staff member in charge shall immediately:

i. Contact the facility's on-call medical staff or the consulting physician; or

ii. Arrange a medical examination at the local hospital or clinic;

14. Explore other treatment options for a child whenever mechanical restraint proves ineffective or accelerates destructive/self-injurious behavior, including, but not limited to:

i. One-to-one staff supervision;

ii. Psychotropic medication, provided it is approved and prescribed by a physician; and/or

iii. Psychiatric hospitalization; and

15. Prohibit the use of the following types of mechanical restraints:

i. Straight jackets;

ii. Leg irons;

iii. Papoose boards;

iv. Ropes;

v. Metal handcuffs;

vi. Body wraps;

vii. Body tubes;

viii. Teflon handcuffs;

ix. Blanketing; and

x. Four and five point restraint.

(l) A facility that is accredited by the Joint Commission on Accreditation of Health Care Organizations (JCAHO) as a psychiatric hospital or facility and has a current contract with the Division may use four and five point restraint with a child. When the facility uses four or five point restraint, the facility shall comply with all the requirements for physical and mechanical restraint, with the exception of (k)15x above.

(m) A facility utilizing a behavior management room shall:

1. Ensure that the room:

i. Is unlocked at all times during its use;

ii. Is used for only one child at a time;

iii. Has floor space that provides a minimum of 70 square feet;

iv. Has a ceiling height of at least seven feet and six inches;

v. Has durable padded covering secured on the walls at least up to the six-foot level. The covering shall be made of a material that is fire retardant;

vi. Provides a minimum of 10 foot-candles of light in all areas of the room. All lighting fixtures shall have a protective covering to prevent tampering by a child;

vii. Has a door that is padded and equipped with a safety glass window to provide visibility of the room; and

viii. Has adequate ventilation that complies with local and state regulations;

2. Establish a written policy regarding the use of the behavior management room for children. This written policy shall specify:

i. Criteria for the use of this room, including those types of behavior that could result in the child's isolation;

ii. Those staff members who are authorized to place a child in the room;

iii. Procedures for ensuring the child's safety while confined in the room;

iv. Procedures for helping the child re-enter the group; and

v. Time frames governing a child's isolation in the room;

3. Ensure that no child remains in such a room for more than two consecutive hours or for more than four hours in a 24-hour period unless approval from a physician is obtained. The facility may request approval from the physician to exceed the time frame limitations for the use of the behavior management room when it appears that a child needs additional time to gain control of his or her behavior. A written copy of the physician's order to extend the time a child remains in the behavior management room shall be filed in the child's case record;

4. Ensure that objects such as belts, matches, pens or other potentially harmful objects are removed from the child prior to the child's placement in the behavior management room;

5. Ensure that there is no minimum length of time for placement when children are isolated in such a room;

6. Ensure that a staff member:

i. Maintains constant visual contact with any child considered to be at high risk if left unattended in such a room; and

ii. Visually observes a child not considered a high risk in such a room at least every 15 minutes to ensure the safety of the child;

7. Ensure that the child has access to toilet facilities;

8. Prohibit the use of a behavior management room for non-violent or non-assaultive offenses or behaviors or for practices to:

i. Prevent runaways;

ii. Seclude a child who is ill;

iii. Punish a child for stealing, cursing, or failing to cooperate with house rules;

iv. Facilitate supervision for the convenience of staff; and/or

v. Permit a child to eat his or her meals in such a room;

9. Maintain a log book detailing each use of the behavior management room. This log book shall contain the following:

i. The name of the child;

ii. The date and time of day that the child was placed in such a room;

iii. The signature of the supervising staff member authorizing placement;

iv. A description of the behavior precipitating the decision to place the child in such a room;

v. The time(s) the observing staff member checked on the child in such a room, including a description of

the child's behavior and signature of the staff member responsible for observing the child;

vi. The time that the child was removed from such a room;

vii. The child's condition and appearance at the time of removal; and

viii. The child's behavior upon return to the group; and

10. Maintain a copy of the log book entry as identified in (m)9 above in the child's record.

(n) Facilities that are operated by the Division shall adhere to all the restrictive behavior management practices policies that are developed, implemented and promulgated by the Department and the Division.

Amended by R.1998 d.413, effective August 17, 1998.

See: 30 N.J.R. 1494(a), 30 N.J.R. 3055(a).

In (i), rewrote 2; and in (j), rewrote 6.

#### Case Notes

Initial Decision (2007 N.J. AGEN LEXIS 789) adopted, which concluded that applicants' request for their 11-year-old child to be placed at a New Mexico school and treatment facility was correctly denied as a matter of law because the facility did not satisfy the pertinent federal and State regulations necessary to provide services to a New Jersey Medicaid beneficiary, where: (1) the facility was not licensed as a health care provider or provider of inpatient psychiatric services in New Mexico; (2) the facility was not an approved provider of inpatient psychiatric services for children in the New Mexico Medicaid program; (3) the facility was not accredited by JCAHO; and (4) the facility's therapy included physical restraint of children who were not at that time a danger to themselves or others. R.C. and C.M. ex rel. C.G. v. DMAHS, OAL Dkt. No. HMA 4414-06, 2008 N.J. AGEN LEXIS 274, Final Decision (January 8, 2008).

#### 10:127-6.14 Discipline and control

(a) The facility shall develop house rules to help the children develop self-control and conform to acceptable patterns of social behavior.

1. The facility 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 facility shall explain its disciplinary practices individually with each child at the time the child is placed in the facility.

4. The rules shall be maintained on file in the facility and made available to parents.

5. The house rules may be incorporated in the child's bill of rights, as specified in N.J.A.C. 10:127-3.2.

(b) The facility shall assign responsibility for the discipline, control, and supervision of children to staff members and shall not delegate that responsibility to other children.

(c) The facility shall not threaten discipline or administer discipline to a child for the misbehavior of another child or group of children.

(d) The facility 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, humiliation, or other forms of degradation;
4. Deprivation of meals, 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 of entry to the residence;
9. Temporary suspension and return of a child from the facility to a parent, relative, foster home, or shelter, unless approved by the Division or other placing agency; and
10. Seclusion in a locked room.

#### **10:127-6.15 Search and seizure of weapons and contraband**

(a) Facilities may conduct searches for weapons or contraband, provided that they maintain on file in the facility written policies and procedures that are consistent with the requirements of this chapter.

1. The facility shall define contraband to include illegal drugs, unauthorized property, stolen property or items otherwise obtained illegally.
2. The facility shall post the policy in an area conspicuous to children, explain the policy and distribute copies of the written policy to children and their parents upon admission and when changes are made to the policy.
3. The facility shall specify the actions that it will take when weapons or contraband are found.

(b) The facility shall prohibit all staff members, consultants and volunteers from strip searching a child for any reason.

(c) The facility shall permit frisk searches (surface searches of the outer clothing) of a child only when there is reasonable suspicion that the child is in possession of a weapon.

1. The facility 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 facility shall not frisk search a child who is suspected of possessing contraband other than a weapon, but may frisk search a child who is suspected of possessing illegal drugs when:

- i. The facility 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 facility's request to conduct a lawful search.

3. The facility shall not frisk search a child who is suspected of possessing contraband other than a weapon or illegal drugs.

4. The facility shall ensure that a frisk search is conducted:

- i. In the presence of two staff members, one of whom has supervisory or administrative responsibilities in the facility; 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 facility may choose to use an electronic "wand" or other similar noncontact device on a child who is suspected of possessing a weapon.

- i. The facility shall obtain written approval from the Bureau for the use of an electronic "wand" or other noncontact device prior to its use with children;
- ii. The facility shall maintain on file a written policy that outlines the use of an electronic "wand" or other similar noncontact device;
- iii. The facility 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 facility 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 facility shall ensure that the staff member:

1. Asks the child to empty voluntarily any garment, pocket, purse or other possession;

2. Inspects all such items that are in plain view; and

3. If necessary, 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 facility staff member.

(e) If a facility 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 facility may conduct an unannounced search if:

1. The facility has explained and documented this practice to the child and his or her parents, as specified in N.J.A.C. 10:127-3.2 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 facility allows the child an opportunity to be present during a search. If the child declines the opportunity, the staff members may conduct the search in the child's absence.

(f) When unannounced room searches occur, as specified in (e) above, the facility shall verify which child is responsible for any weapon or contraband brought into the facility before imposing a disciplinary action or sanction on the child.

(g) Before a facility conducts a blood or urine screening on a child to determine substance abuse, the facility 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 facility is specifically designated as a drug treatment facility; or

iii. When ordered by a physician who has determined that such screening is necessary through review of the child's previous case history and current behavior; and

2. Substance abuse screenings are conducted only if:

i. The facility has informed the child and parents, if available, beforehand about the screening;

ii. The facility 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;

iii. The facility ensures that the child has privacy when a urine sample is collected, unless the facility documents that the child has a history of falsifying samples. If the child has such a history, the facility shall request appropriate medical staff or a staff member from the facility of the same sex as the child to witness or verify that the child is not falsifying samples; and

iv. The facility 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.

(h) The facility 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 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 blood or urine screening.

Amended by R.1998 d.413, effective August 17, 1998.

See: 30 N.J.R. 1494(a), 30 N.J.R. 3055(a).

Rewrote (c); in (g)2, substituted a reference to licensed laboratories, clinics and FDA-approved home drug screening/testing kits for a reference to licensed facilities in ii, and substituted "medical staff or a staff member from the facility" for "trained staff" in iii; and in (h), inserted ", the use of an electronic 'wand' or other similar noncontact device," following "search".

#### 10:127-6.16 Firearms and weapons

(a) The facility shall not maintain any firearm, chemical or other weapon within or on the grounds of the facility.

(b) The facility shall prohibit any staff member or child to possess any firearm, chemical or other weapon within or on the grounds of the facility.

#### 10:127-6.17 Aversive conditioning procedures

A facility that utilizes aversive conditioning procedures with developmentally disabled children shall first obtain written approval from the Bureau prior to their implementation with children.

### SUBCHAPTER 7. HEALTH REQUIREMENTS

#### 10:127-7.1 Comprehensive health plan for children

(a) The facility shall prepare and implement a comprehensive health plan to ensure that each child's medical, dental, and other health needs are met adequately and promptly.

1. The facility shall identify a physician or health care organization who will assume responsibility for routine medical care of each child.

2. The facility shall arrange for emergency, routine and follow-up medical care for each child.

#### 10:127-7.2 Health care and medical treatment for children

(a) Within 72 hours after admission, the facility shall ensure that each child receives a medical examination, as defined in (d) below, unless the child had received such a medical examination within 30 calendar days prior to his or her placement.

(b) When the facility suspects that a child is ill or carrying a contagious disease, the child shall be examined by a physician prior to admission.

(c) When the facility suspects that a child has been abused or neglected, the facility shall ensure that the child is examined by a physician immediately upon admission.

(d) The facility shall ensure that each child receives an annual comprehensive physical examination and shall maintain a copy of the results of this physical examination in the child's record.

1. The physical examination shall include, but not be 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 facility may use vision and hearing screening tests completed at the child's school if these tests meet the requirements specified in (d)1iii and iv above.

3. The facility shall ensure that eye glasses, orthopedic apparatus or other equipment are available to each child who requires them.

4. The facility shall ensure that all children 13 years of age and under receive a Mantoux tuberculin skin test unless they have had tuberculosis, and ensure follow-up with the physician if test results are positive.

5. The facility shall ensure that all children are appropriately immunized.

(e) The facility shall ensure that each child receives a dental examination within three months following admission and at least semi-annually thereafter.

(f) The facility shall ensure that children between two and six years of age receive developmental evaluations by a physician, nurse or other appropriate health official.

#### 10:127-7.3 General medical practices

(a) The facility shall ensure that any medical, dental, psychological or psychiatric treatment or medication administered to a child is explained to the child.

(b) When a serious accident or illness occurs to a child, the facility shall take the necessary emergency action and notify the child's parents and the Division's case manager or other placing agency immediately. The facility 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 in (c)3 below, the facility shall:

1. Obtain a written statement 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, 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	Giardia lamblia *	Impetigo
German measles *	Hepatitis A *	Lice
Hemophilus influenzae *	Salmonella *	Scabies
Measles *	Shigella *	
Meningococcus *		
Mumps *		
Strep throat		
Tuberculosis *		
Whooping cough *		

\* Reportable diseases, as specified in N.J.A.C. 10:127-7.3(c)3.

#### 10:127-7.4 Medication other than psychotropic medication

(a) The facility shall administer prescription medication to a child only when the medication is authorized by a physician.

(b) The facility shall limit the dispensing of non-prescription over-the-counter medication to the following types, 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 facility 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 facility shall maintain a medication log book that contains the following information:

1. The name of the 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 the medication;
5. The date and time the medication was administered;
6. Possible side effects of the medication, if any; and

7. The signature and title of the staff member dispensing the medication.

(e) The facility 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.

(f) The facility shall ensure that the following procedures for storage of medication are followed:

1. The facility shall keep all prescription and non-prescription medication in a locked cabinet or container, or, as needed, in a locked box in a refrigerator. The facility 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 reach of children;

2. 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;

3. The telephone number of the regional poison control center shall be posted at all medication-dispensing stations and by each telephone; and

4. Staff members shall have access to medical supplies at all times.

(g) In situations where the facility determines that an adolescent is capable of self-administration of prescription birth control-related supplies, the facility may allow the adolescent to maintain such supplies amongst her personal possessions, so long as the facility:

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.

#### 10:127-7.5 Psychotropic medication

(a) The facility 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 facility 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. Non-pharmacological interventions that were considered or attempted to address the child's behavior;

ii. 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;

iii. The dosage; and

iv. How possible side effects will be monitored and reported to the physician who prescribed the medication.

(c) Within two weeks after admission, the facility shall ensure that all children already receiving psychotropic medication receive a clinical assessment by a physician as specified in (b) above. The facility may extend this two-week time period up to 30 days in which a child receives a clinical assessment, provided that:

1. The facility has the necessary amount(s) of medication to administer to the child during any extended time period;

2. The facility has consulted with the physician who previously prescribed the medication; and

3. The facility documents the consultation in (c)2 above in the child's record.

(d) The facility 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 facility, the physician shall complete the pre-treatment clinical assessment as specified in (b) above.

4. The facility's staff members shall document on a separate reporting form that the psychotropic medication was administered in an emergency situation. The documentation shall identify possible side effects to be monitored as described in (b)3iv above.

(e) Before administering psychotropic medication, the facility shall obtain written informed consent from the child's parent(s) or legal guardian, and from all children 14 years of age and older consistent with their age and level of functioning unless the facility documents that the child lacks the capacity for informed consent. In cases where both a parent and legal guardian exist, the facility 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;
- iii. Any change in type of medication; and
- iv. How possible side effects of the medication will be treated.

3. When a request for written informed consent is made by a staff member, the staff member shall inform the parent that a physician is available for consultation regarding the proposed medication.

4. The facility may obtain verbal informed consent by telephone from the child's parents when the facility, physician, registered nurse or staff member is unable to obtain written informed consent, provided that:

i. The facility documents the telephone call in the child's record; and

ii. The facility obtains the written informed consent from the child's parents or legal guardian within 24 hours of receiving the verbal informed consent.

5. If the facility cannot obtain written informed consent or verbal informed consent, the facility 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 facility 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 continues to refuse or revoke 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 facility shall advise the child and the parent that the matter will be discussed at a meeting with the child's treatment team and shall invite the child and parent to attend such meeting;

ii. The director of the facility may suggest that the child and parent discuss the matter with a person of their own choosing, such as a relative, attorney, physician, or mental health clinician;

iii. The treatment team shall meet to discuss the treating physician's recommendations and the response of the child or parent; and

iv. The treatment team shall attempt to formulate a viable treatment plan that is acceptable to the child and parent;

3. If, after the treatment team meeting, the child or parent 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 facility 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, provide a written report for the child's treatment team, and, if the parent or child is refusing or has revoked consent to medication, speak with the parent or child, respectively; and

4. If the child or parent continues to refuse or revoke consent to medication, and the facility feels that the child cannot be adequately treated without the medication, the facility may initiate an emergency discharge, as specified in N.J.A.C. 10:127-6.2(b) and 10.5.

(g) The facility 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 facility 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 facility shall ensure that psychotropic medication is stored as specified in N.J.A.C. 10:127-7.4(f).

(h) The facility shall ensure that all children receiving psychotropic medication are monitored in the following manner:

1. Staff members directly involved with the child shall record daily progress towards treatment goals and objectives and 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 facility shall ensure that:

i. The physician or his or her designee reviews the child's behavior, well-being and status towards treatment goals and objectives, side effects and reason for continuing the medication every 30 days;

ii. The review is documented in the child's medical record; and

iii. The facility informs the child, parents, legal guardian, the Division's case manager or other placing agency in writing about the outcome of a negative review.

(i) The facility shall ensure that each staff member involved in administering psychotropic medication receives the following training:

1. Indications for drug use; and
2. Therapeutic effects and side effects.

(j) The facility shall record all information about a child's psychotropic medication, as specified in N.J.A.C. 10:127-7.4(d), and the facility shall ensure that the child's medication record is available to the physician for review when additional medication is prescribed.

Amended by R.1998 d.413, effective August 17, 1998.

See: 30 N.J.R. 1494(a), 30 N.J.R. 3055(a).

In (c), added the last sentence in the introductory paragraph, and added 1 through 3.

#### **10:127-7.6 Health education and physical care for children**

(a) The facility shall ensure that children receive training in personal care, hygiene and grooming habits.

1. The facility shall discuss the physiological changes experienced during adolescence with children in the facility.

2. The facility shall instruct children about sexually responsible behavior including how to protect themselves from pregnancy and sexually transmitted diseases including AIDS.

3. The facility shall instruct all children about the health and social consequences of smoking tobacco products, smokeless tobacco, alcohol and drug abuse.

(b) The facility 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, shampoo, razors, shaving cream and feminine hygiene articles.

(c) For children unable to provide for their own personal care and hygiene, the facility shall bathe and groom them, and provide other personal hygiene services that are necessary to meet their needs.

(d) The facility may permit residents to maintain over-the-counter cosmetics, acne preparations and personal hygiene supplies among their personal possessions.

(e) The facility 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 facility shall ensure that each child's clothing is kept clean and in good repair. The facility may require children 12 years of age and older to do their own laundry.

2. The facility shall not require children to wear any article of clothing that would explicitly identify them as a resident of the facility.

#### 10:127-7.7 Health requirements for staff

(a) Before working for a facility 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 facility. Such statement shall be based on a medical examination conducted within the six months immediately preceding such person's association with the facility.

(b) Prior to or upon beginning work or having contact with the children for the equivalent of at least eight hours a week at the facility, each staff member shall take a Mantoux tuberculin skin test with five TU (tuberculin units) of PPD tuberculin. If the staff member has had a previous positive Mantoux tuberculin skin test the staff member shall have a chest x-ray taken in lieu of the Mantoux tuberculin skin test. The staff member shall submit to the facility written documentation of the results of the test or x-ray.

1. If the Mantoux tuberculin skin test result is insignificant (zero to nine millimeters (mm) of induration), no further testing shall be required. The Bureau or facility may, at any time, require a staff member to retake the Mantoux tuberculin skin test, if there is a reason to believe or suspect that the staff member may have contracted tuberculosis or if the State Department of Health 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 facility 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 facility shall ensure that the staff member adheres to the recommended follow-up testing, if any, by the physician.

3. The facility shall prohibit any staff member who fails to submit satisfactory results from having contact with the children at the facility.

(c) The facility shall maintain on file the results of each staff member's:

1. Mantoux tuberculin skin test or chest x-ray when indicated; and

2. Physical examination.

(d) The facility 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 facility shall document the action taken to exclude the staff member and maintain such documentation in the staff member's personnel record. The facility shall not permit the staff member to reassume duties until the condition is no longer present as specified in N.J.A.C. 10:127-5.1(a).

#### 10:127-7.8 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 facility shall ensure that areas in the facility, 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

#### 10:127-8.1 General requirements

(a) The provisions of this subchapter shall apply to each facility that provides or arranges transportation for children:

1. To or from the facility or between other prearranged sites and the facility; or

2. In connection with an activity (such as a field trip) conducted by or under the auspices of the facility.

(b) Each facility as specified in (a) above shall also comply with applicable provisions of the New Jersey Division of Motor Vehicles 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 facility may authorize staff members to utilize their own private passenger vehicles to transport children from the facility to and from scheduled field trips or to transport children from the facility 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 eight or fewer persons;

2. The driver possesses a valid automobile driver's license issued by the New Jersey Division of Motor Vehicles, hereinafter referred to as the DMV, or a valid automobile driver's license issued by an approved out-of-State motor vehicle agency for the state in which the driver is a legal resident;

3. The vehicle has a valid motor vehicle inspection sticker issued by the DMV or by an approved out-of-State motor vehicle agency for the state in which the car is legally registered;

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 or at least the minimum amounts required by a state other than New Jersey in which the car is legally registered;

5. The facility maintains transportation records on every vehicle utilized for the above, as specified in N.J.A.C. 10:127-8.4; and

6. The facility ensures that staff members apply the safety practices specified in (d) and (e) below.

(d) The facility shall ensure that all vehicles used to transport children:

1. Are maintained in clean and safe condition;
2. Are free from tobacco smoke and the use of smokeless tobacco while children are passengers;
3. Have a maximum seating capacity that does not exceed the number of seat belts (unless the vehicle is not required by law to have seat belts);
4. Have seats and back rests securely fastened;
5. Have all seats that are facing sideways or backwards bolted down;

6. Have seats upholstered with springs or foam rubber;

7. Have an operable heater capable of maintaining a temperature of 50 degrees Fahrenheit; and

8. Are equipped with:

i. A triangular portable red reflector device;

ii. All season radial or snow tires from November 15 through April 1 (for New Jersey-based facilities only); and

iii. A removable, moisture-proof and dust-proof first-aid kit, which shall be located in the vehicle.

(e) The facility shall ensure that the following safety practices are followed:

1. A staff member 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 a car seat or an operable seat belt while the vehicle is in motion;

3. All passengers who are one and one-half years of age or younger are secured in car seats (child passenger restraint systems) that meet Federal motor vehicle safety standards in accordance with provisions of the New Jersey Division of Motor Vehicles law, pursuant to N.J.S.A. 39:3-76.2a;

4. All adolescents, children and infants are loaded and unloaded from the curbside of the vehicle; and

5. Children are not permitted to ride in the back or beds of trucks.

(f) When transporting more than six children below six years of age, the facility 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 facility shall ensure that one adult in addition to the driver remains in the vehicle.

(h) The facility shall maintain transportation records, as specified in N.J.A.C. 10:127-8.4.

(i) If the facility utilizes a Type I School Bus, Type II School Bus or a Type II School Vehicle, the facility shall:

1. Meet all applicable rules of the DMV, New Jersey Department of Education and New Jersey Department of Human Services; and

2. Ensure that the drivers of such vehicles possess a valid Class B license for the New Jersey Type I School Bus, or possess a valid Class C license for the New Jersey Type II School Bus or an out-of-State equivalent license, as approved by the DMV.

(j) The facility shall limit travel for an adventure activity in program vehicles including cars, vans and wagon trains by:

1. Scheduling at least one full day of rest after every five days of travel;
2. Ensuring that no staff member drives for more than four hours without a 30-minute break; and
3. Prohibiting scheduled driving between 11:00 P.M. and 6:00 A.M., unless it is necessary to complete an emergency evacuation.

Administrative Correction.  
See: 25 N.J.R. 4932(c).

#### 10:127-8.2 Vehicle insurance requirements

(a) The facility shall maintain vehicle liability insurance for bodily injury or death in amounts established in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the provisions of N.J.A.C. 1:30 by the Department of Human Services per accident for every vehicle that is:

1. Owned or leased by the facility; and
2. Utilized to transport children residing in the facility.

(b) If the facility contracts for transportation services, the facility shall ensure that the contracted company maintains insurance coverage as identified in (a) above.

Amended by R.1998 d.413, effective August 17, 1998.  
See: 30 N.J.R. 1494(a), 30 N.J.R. 3055(a).  
In (a), rewrote the introductory paragraph.

#### 10:127-8.3 Additional requirements for transporting physically handicapped, non-ambulatory children

(a) Facilities 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 facility 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.

#### 10:127-8.4 Record requirements

(a) The facility shall ensure that each person who is authorized to transport children possesses a valid driver's license.

(b) The facility shall maintain on file the following:

1. A photostatic copy of the registration of each vehicle used to transport children;
2. A copy of the insurance policy for every vehicle owned, leased, contracted or utilized by the facility; and
3. The name and address of the lessor or contractor furnishing a vehicle to the facility, if applicable.

(c) The facility shall maintain maintenance records for all vehicles used by the facility for the transportation of children, including repair and inspection records, and shall retain them for the lifetime of the vehicles.

(d) The facility shall develop and maintain on file a record of all trips where the facility's vehicles are used for transporting children that documents:

1. The date and time each staff member drove;
2. Incidents of the day; and
3. Names of the children who attended the trip.

Administrative Correction.  
See: 25 N.J.R. 4932(c).

## SUBCHAPTER 9. ADVENTURE ACTIVITIES

#### 10:127-9.1 General requirements

(a) The requirements of this subchapter shall apply to any facility 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 initiatives and rock climbing;
7. Sailing and boating;
8. Snow skiing;
9. Solos;

10. Swimming;
11. Water skiing; and
12. Camping.

(b) All facilities whose program consists primarily of adventure activities shall maintain on file a written statement of purpose that shall identify the following:

1. The facility'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 facility 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.

(c) For facilities whose program consists primarily of adventure activities, the facility 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 statement that the facility will not force or coerce a child to participate in any adventure activity, as specified in (i) below.

(d) For facilities whose program does not consist primarily of adventure activities, the facility shall discuss with the child and his or her parents the information specified above before the child is scheduled to participate in the activity.

(e) The facility shall document in the child's record that a staff member discussed the information specified in (c) and (d) above.

(f) The facility shall maintain on file at the facility's administrative office a list of all children and staff members who participate in an adventure activity that occurs away from the grounds of the facility.

(g) The facility shall have a fully-stocked first aid kit that is activity-appropriate and available whenever an activity occurs off-grounds.

(h) The facility 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.

(i) The facility 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 overcoming his or her fears of a particular activity or to foster an interest in participating in a particular activity.

(j) The facility shall not engage in any activities requiring or involving firearms nor permit staff to have firearms.

(k) The facility shall prohibit airborne activities including bungee jumping, hang gliding and parachuting.

(l) The facility shall not permit children to use power tools and lawn mowers unless the children wear protective safety glasses and work shoes or boots, and are under the direct supervision of staff members.

(m) The facility shall not allow children or staff members to participate in manufacturer's tests of new adventure equipment.

(n) For all water and outdoor trips away from the grounds or campsites, the facility shall obtain and maintain on file in the shift log or at the administrative office the information from a weather report issued by the National Weather Service no earlier than six hours before the trip and modify or cancel the activity if there is a threat of a severe storm or similar environmental hazard.

(o) The facility shall also obtain and maintain on file in the shift log or at the administrative office the information from a report from the park service or other appropriate state or local agency that indicates that there is no life-threatening environmental hazard, such as fires, polluted water, threat of flash floods or avalanches.

(p) The facility 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.

(q) The facility shall ensure that all water from 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.

(r) The facility shall ensure that all children receive instruction in the use of personal floatation devices (life jackets) prior to their participation in water activities.

Administrative Correction.  
See: 25 N.J.R. 4932(c).

#### 10:127-9.2 Plans for emergency evacuation and search and rescue

(a) The facility shall develop and maintain on file at the 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, 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 evacuating all children and staff members; and

4. Name, address and telephone number of local rescue squads, law enforcement agencies and hospitals, and guidelines for contacting them.

(b) The facility shall develop and maintain on file at the administrative office a written plan detailing procedures for search and rescue for each adventure activity that takes place outside the facility'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. A 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 facility's grounds, the facility 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 facility or his or her designee shall document and maintain on file at the administrative office that all emergency evacuation and search and rescue missions were reviewed within five days of the incident, and issue a statement to staff members indicating approval or recommendations for improving these practices, if applicable.

(e) For adventure activities occurring outside the facility's grounds, the facility shall give at least one staff member money or credit cards to handle emergencies.

### 10:127-9.3 Reporting requirements

(a) The facility shall report all fatalities and all accidents requiring hospitalization or medical care by a physician to the Bureau as soon as staff have access to a telephone, as specified in N.J.A.C. 10:127-3.7(b).

(b) The facility shall provide written notification 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"), within five working days of the incident.

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.
2. The director of the facility or his or her designee shall document in writing and maintain on file that he or she reviewed every incident and accident within five working days after the incident or accident occurred.
3. The facility shall send a written report within 10 working days of the incident or accident to the Bureau and to the child's parents about what precautions have been taken to prevent a similar kind of incident or accident from occurring in the future.

(c) The facility shall submit a written description to the Bureau and permit an on-site inspection prior to its implementation of any of the following high risk adventure activities:

1. Caving;
2. Ropes initiatives and rock climbing; and
3. Solo camping.

(d) The facility shall submit a written description to the Bureau prior to the implementation of the following medium risk adventure activities:

1. Canoeing, kayaking and tubing;

2. Water skiing;
3. Snow skiing; and
4. Boating and sailing.

(e) The written descriptions required in (c) and (d) 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 members who will be involved in implementing the adventure activity; and
3. The policies and procedures to ensure the safety of the children and staff members during the adventure activity.

### 10:127-9.4 Biking

(a) Prior to implementing a planned biking trip that is off the grounds of the facility and that is more than 10 miles in duration, the facility shall:

1. Obtain the necessary permits to ride on roads or highways from host states and local governments where applicable; and
2. Maintain on file at the administrative office copies of these permits.

(b) The facility 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. Off trails and in prohibited areas.

(c) The facility 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 a 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 member, and for groups of four or more children have another staff member 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.

(d) The facility shall ensure that the following equipment is brought on a biking trip:

1. A road map;