

**CHAPTER 128**

**MANUAL OF REQUIREMENTS FOR CHILDREN'S GROUP HOMES**

**Authority**

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

**Source and Effective Date**

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

**Chapter Expiration Date**

Chapter 128, Manual of Requirements for Children's Group Homes, expires on November 17, 2011.

**Chapter Historical Note**

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

Chapter 128, Manual of Standards for Group Homes, was repealed, and a new Chapter 128, Manual of Requirements for Children's Group Homes, was adopted by R.1991 d.66, effective February 19, 1991.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

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

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

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

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

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

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

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. GENERAL REQUIREMENTS**

- 10:128-1.1 Legal authority
- 10:128-1.2 Definition and types of children's group homes
- 10:128-1.3 Definitions

**SUBCHAPTER 2. APPROVAL PROCEDURES**

- 10:128-2.1 Application for a certificate of approval
- 10:128-2.2 Issuance of a certificate of approval
- 10:128-2.3 Denying, suspending, revoking or refusing to renew a certificate of approval
- 10:128-2.4 Administrative hearings
- 10:128-2.5 Complaints
- 10:128-2.6 Public access to licensing records

**SUBCHAPTER 3. ADMINISTRATION**

- 10:128-3.1 Statement of purpose
- 10:128-3.2 Rights of children
- 10:128-3.3 Information to parents and staff members

- 10:128-3.4 Community participation
- 10:128-3.5 Conflict of interest
- 10:128-3.6 Intake and admissions
- 10:128-3.7 Reporting requirements
- 10:128-3.8 Records
- 10:128-3.9 Comprehensive general liability insurance

**SUBCHAPTER 4. PHYSICAL FACILITY REQUIREMENTS**

- 10:128-4.1 Physical facility initial approval requirements for all homes located in New Jersey
- 10:128-4.2 Physical facility initial approval requirements for all homes located outside of New Jersey
- 10:128-4.3 Maintenance and sanitation requirements for all homes
- 10:128-4.4 Additional maintenance and sanitation requirements for all homes located in New Jersey
- 10:128-4.5 Emergency evacuation instructions, medical emergencies, fire prevention, first aid and equipment
- 10:128-4.6 Prohibition on the use of tobacco products

**SUBCHAPTER 5. STAFF REQUIREMENTS**

- 10:128-5.1 General requirements for director and all staff members
- 10:128-5.2 Staff qualifications
- 10:128-5.3 Staff to child ratios
- 10:128-5.4 Staff training and development
- 10:128-5.5 Volunteers and student interns
- 10:128-5.6 Criminal History Record Information background checks
- 10:128-5.7 Child Abuse Record Information background checks
- 10:128-5.8 Background check procedures for New Jersey homes and agencies
- 10:128-5.9 Background check procedures for out-of-State homes and agencies

**SUBCHAPTER 6. PROGRAM REQUIREMENTS**

- 10:128-6.1 Treatment plan for children in group homes, teaching family homes, treatment homes and alternative care homes
- 10:128-6.2 Discharge planning
- 10:128-6.3 Case management plan for children in supervised transitional living homes
- 10:128-6.4 Work and employment
- 10:128-6.5 Money and allowance
- 10:128-6.6 Visitation and communication
- 10:128-6.7 Education
- 10:128-6.8 Recreation
- 10:128-6.9 Religion
- 10:128-6.10 Rest, bedroom and sleep
- 10:128-6.11 Food and nutrition for children
- 10:128-6.12 Pets
- 10:128-6.13 Restrictive behavior management practices
- 10:128-6.14 Discipline and control
- 10:128-6.15 Search and seizure of weapons and contraband
- 10:128-6.16 Firearms and weapons
- 10:128-6.17 Clothing

**SUBCHAPTER 7. HEALTH REQUIREMENTS**

- 10:128-7.1 Comprehensive health plan for children
- 10:128-7.2 Health care and medical treatment for children
- 10:128-7.3 General medical practices
- 10:128-7.4 Medication other than psychotropic medication
- 10:128-7.5 Psychotropic medication
- 10:128-7.6 Health education and physical care for children
- 10:128-7.7 Health requirements for staff
- 10:128-7.8 Environmental sanitation and staff hygiene

**SUBCHAPTER 8. TRANSPORTATION REQUIREMENTS**

- 10:128-8.1 General requirements
- 10:128-8.2 Vehicle insurance requirements

- 10:128-8.3 Additional requirements for transporting physically handicapped, non-ambulatory children  
 10:128-8.4 Record requirements

## SUBCHAPTER 9. ADVENTURE ACTIVITIES

- 10:128-9.1 General requirements  
 10:128-9.2 Plans for emergency evacuation and search and rescue  
 10:128-9.3 Reporting requirements  
 10:128-9.4 Biking  
 10:128-9.5 Canoeing, kayaking and tubing  
 10:128-9.6 Caving  
 10:128-9.7 Hiking  
 10:128-9.8 Horseback riding  
 10:128-9.9 Ropes initiatives and rock climbing  
 10:128-9.10 Sailing and boating  
 10:128-9.11 Snow skiing, cross country skiing, snow boarding and snow tubing  
 10:128-9.12 Solo (solitary activities)  
 10:128-9.13 Swimming  
 10:128-9.14 Water skiing  
 10:128-9.15 Camping  
 10:128-9.16 Requirements for wagon trains  
 10:128-9.17 Health and sanitary practices  
 10:128-9.18 Qualifications for staff supervising adventure activities  
 10:128-9.19 Staff to child ratio requirements  
 10:128-9.20 Special requirements for communication and visiting

## SUBCHAPTER 10. SERVICES FOR PREGNANT AND PARENTING ADOLESCENTS

- 10:128-10.1 General requirements  
 10:128-10.2 Staff and staff ratio requirements  
 10:128-10.3 Staff development and training  
 10:128-10.4 Case management requirements  
 10:128-10.5 Discharge planning requirements  
 10:128-10.6 Services regarding paternal involvement  
 10:128-10.7 Services to the adolescent's family  
 10:128-10.8 Parenting education  
 10:128-10.9 Infant stimulation  
 10:128-10.10 Infant toys and equipment  
 10:128-10.11 Recreation  
 10:128-10.12 Money and allowance  
 10:128-10.13 Visiting and communication  
 10:128-10.14 Behavior management  
 10:128-10.15 Comprehensive health plan for pregnant adolescents  
 10:128-10.16 Comprehensive health plan for infants  
 10:128-10.17 Comprehensive health care for adolescent mothers who are not pregnant  
 10:128-10.18 Care of sick infants  
 10:128-10.19 General medical practices  
 10:128-10.20 Medication  
 10:128-10.21 Environmental sanitation requirements for disinfecting  
 10:128-10.22 Personal hygiene requirements  
 10:128-10.23 Health education and physical care for adolescents and infants  
 10:128-10.24 Food and nutrition for infants  
 10:128-10.25 Life skills development

## SUBCHAPTER 1. GENERAL REQUIREMENTS

**10:128-1.1 Legal authority**

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

(b) Under N.J.S.A. 30:1-14 and 30:4C-4, the Department of Children and Families is authorized to inspect, evaluate,

and approve publicly or privately operated homes that provide board, lodging, care and treatment services for children who are placed and/or financed by the Division of Youth and Family Services or any other New Jersey State agency.

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

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

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

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

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

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

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

Amended by R.2006 d.433, effective December 18, 2006.  
 See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

Substituted "Children and Families" for "Human Services" throughout; in (b), deleted "N.J.S.A." preceding "30:4C-4"; in the introductory paragraph of (c), deleted "Division of Youth and Family Services"; in

(c)1, deleted "Division of Developmental Disabilities or the Division of Mental Health and Hospitals, both of the Department of Human Services, by the" and inserted "and Senior Services" and "by the State Department of Human Services"; in (e), substituted "assigned" for "delegated" and "Office" for "Division of Youth and Family Services, Bureau" and "Division"; and in (g), substituted "Office of Licensing" for "Division of Youth and Family Services".

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

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

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

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

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

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

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

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

Amended by R.1999 d.337, effective October 4, 1999.  
See: 31 N.J.R. 1436(a), 31 N.J.R. 2886(a).

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

#### Law Review and Journal Commentaries

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

#### Case Notes

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

### 10:128-1.3 Definitions

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

"Adventure activity" means a planned activity of a wilderness or athletic nature that requires specially trained staff members and/or special equipment that is utilized with children to assist in their development of self-confidence and insight.

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

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

"Child" means any person who is under 18 years of age and/or any person between the ages of 18 and 21 who is under the supervision of the Division in placement in a children's group home.

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

"Department" means the New Jersey Department of Children and Families.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## SUBCHAPTER 2. APPROVAL PROCEDURES

### 10:128-2.1 Application for a certificate of approval

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

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

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

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

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

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

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

In (a), rewrote 2 and deleted 3.

Amended by R.2006 d.433, effective December 18, 2006.  
See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

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

#### Case Notes

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

#### 10:128-2.2 Issuance of a certificate of approval

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

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

(c) Each certificate period shall be two years.

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

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

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

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

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

Amended by R.2006 d.433, effective December 18, 2006.  
See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

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

#### Law Review and Journal Commentaries

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

#### Case Notes

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

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

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

1. Failure to comply with the provisions of this manual;
2. Violation of the terms and conditions of a certificate of approval;
3. Fraud or misrepresentation in obtaining a certificate;
4. Refusal to furnish the Department with files, reports or records as required by this manual;
5. Refusal to permit an authorized representative of the Department to gain admission to the home or agency or to conduct an inspection or investigation;
6. Any activity, policy, or staff conduct that adversely affects or is deemed by the Office of Licensing to be detrimental to the education, health, safety, well-being or treatment needs of children or that otherwise demonstrates unfitness by the owner or staff members of the home to operate a children's group home;
7. Failure of an out-of-State home or agency to maintain a license, approval or certification in its own state;
8. Failure by the agency or director to secure and to maintain on file documentation from the Department showing compliance with criminal conviction disclosures, as specified in N.J.A.C. 10:128-5.1(b)1, Criminal History Record Information background checks, as specified in N.J.A.C. 10:128-5.6, or Child Abuse Record Information background checks, as specified in N.J.A.C. 10:128-5.7;
9. Refusal by the director, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent or household member to consent to or cooperate in a Criminal History Record Information background check or Child Abuse Record Information background check for himself or herself;
10. Refusal by the director to terminate the employment of a staff member who refuses to consent to or cooperate in a Criminal History Record Information background check or Child Abuse Record Information background check;
11. Refusal by the director to terminate the employment of a staff member when an allegation of child abuse or neglect has been substantiated against the staff member;
12. Refusal by the director to terminate the employment of a staff member convicted of a crime or offense

requiring disqualification, as specified in N.J.A.C. 10:128-5.6(e);

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

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

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

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

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

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

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

In (a), rewrote 7 and 8 and added 9 through 14.  
Amended by R.2006 d.433, effective December 18, 2006.  
See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

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

#### Case Notes

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

#### 10:128-2.4 Administrative hearings

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

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

Amended by R.2006 d.433, effective December 18, 2006.  
See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

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

#### 10:128-2.5 Complaints

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

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

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

Amended by R.2006 d.433, effective December 18, 2006.  
See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

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

#### 10:128-2.6 Public access to licensing records

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

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

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

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

### SUBCHAPTER 3. ADMINISTRATION

#### 10:128-3.1 Statement of purpose

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

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

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

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

#### 10:128-3.2 Rights of children

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

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

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

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

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

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

#### 10:128-3.3 Information to parents and staff members

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

1. Secure a certificate of approval to operate from the Office of Licensing;
2. Comply with all applicable provisions of the manual;
3. Retain a current copy of the manual and make it available for review by parents of resident children;
4. Indicate how parents may secure a copy of the manual by contacting the Office of Licensing, Department of Human Services, PO Box 707, Trenton, New Jersey 08625-0707;
5. Afford parents the opportunity and time to review and discuss with the home or agency director any questions or concerns about policies, requirements, provisions, or alleged violations of the manual;
6. Advise parents that if they believe or suspect that the home or agency is in violation of any provision of the manual, they may report such alleged violations to the Office of Licensing;
7. Make available, upon request, for parents' review the Office's Inspection/Violation and Complaint Reports on the home or agency, as well as any letters of enforcement or other actions taken against the home or agency during the current certificate of approval period;
8. Inform parents that they may request a copy of the home's or agency's behavior management policy, including policies for searches, as specified in N.J.A.C. 10:128-6.13, 6.14, and 6.15;
9. Inform parents that the home or agency is required to provide the child's parents with copies of the home's or agency's visitation and communication policies, a copy of the procedure for expressing concern or registering complaints regarding their child's placement, and a description

of its religious policies, including a statement that the child has a right to practice his or her religion;

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

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

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

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

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

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

Amended by R.2006 d.433, effective December 18, 2006.  
See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

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

#### 10:128-3.4 Community participation

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

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

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

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

#### 10:128-3.5 Conflict of interest

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

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

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

Amended by R.2006 d.433, effective December 18, 2006.  
See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

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

#### 10:128-3.6 Intake and admissions

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

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

1. The child's full name, nicknames, if any, gender, date of birth, religion, and race;
2. The name, address, telephone number, and relationship to the child of the persons with whom the child was living at the time of admission;
3. The name, address, and telephone number of father, mother, foster parents, or legal guardians, if different from (b)2 above;
4. The name, address, and telephone number of the case manager of the Division's Local Office or other placing agency;

5. The name, address, and telephone number of the person to notify in an emergency;
6. The names of siblings, their ages, and gender;
7. The reason for placement of the child;
8. A Medicaid card, if applicable; and
9. A statement signed by the parents or legal guardian, granting consent for emergency medical or surgical care, semi-annual dental care and annual physical examinations for the child.

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

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

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

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

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

Amended by R.2006 d.433, effective December 18, 2006.  
See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

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

### 10:128-3.7 Reporting requirements

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

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

1. Injury, accident or illness that results in the admittance of a child to a hospital;
2. The death of a child while the child was on the premises of the home or in the care of a home staff member or volunteer;
3. Temporary or permanent closing of a home or agency; and
4. Any convictions or guilty pleas of any agency or home staff members that involve or affect any child or the operation of the home or agency, as specified in N.J.A.C. 10:128-5.1(b).

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

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

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

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

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

Amended by R.2006 d.433, effective December 18, 2006.  
See: 38 N.J.R. 2610(a), 38 N.J.R. 5362(b).

In (a), substituted "Department's State Central Registry at 1-877-NJ-ABUSE (1-877-652-2873)" for "Office of Child Abuse Control" and inserted "of Youth and Family Services, Community Education Office,

PO Box 717, Trenton, New Jersey 08625-0717;"; in introductory paragraphs of (b), (c) and (d) and in (c)2 and (c)4, substituted "Office of Licensing" for first occurrence of "Bureau"; in (b), substituted "Office" for second occurrence of "Bureau"; in (c)3, deleted "or agency-approved home," preceding "caused"; and in (d)1, substituted "home or agency" for "home, agency or agency-approved home".

### 10:128-3.8 Records

(a) The home's or agency's records shall be open for inspection by authorized representatives of the Office of Licensing, the Division of Child Behavioral Health Services, the Department's Institutional Abuse Investigation Unit (IAIU), the Department's contracting units and, provided that they may only secure information about children under the Division's supervision, Division case managers.

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

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

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

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

- i. A current manual;
- ii. A statement of purpose, as specified in N.J.A.C. 10:128-3.1 and 9.1(b);
- iii. The Life/Safety and Program Inspection/Violation reports and Complaint Investigation Summary reports, if applicable, from the Office of Licensing, as well as letters of enforcement or other actions taken against the agency or home, if applicable, that cover the current certificate of approval period;
- iv. The document providing information to parents, as specified in N.J.A.C. 10:128-3.3(a);
- v. A record of each parent's signature attesting to the receipt of the information to parents document, as specified in N.J.A.C. 10:128-3.3(b)1;

vi. Documentation of the use of extermination services, if applicable, as specified in N.J.A.C. 10:128-4.3(a)7;

vii. Policies and procedures regarding behavior management, as specified in N.J.A.C. 10:128-6.13, 6.14 and 10.14;

viii. A record of in-service training conducted for staff members, as specified in N.J.A.C. 10:128-5.4 and 10.3;

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

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

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

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

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

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

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

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

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

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

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

xx. For group homes, a written daily schedule of planned recreational, leisure time and physical exercise

activities, as specified in N.J.A.C. 10:128-6.8(b) and 10.11;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

i. Current staff member attendance sheets;

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

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

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

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

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

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

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

management plan for homes that serve pregnant and parenting adolescents, as specified in N.J.A.C. 10:128-10.4;

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

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

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

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

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

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

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

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

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

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

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

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

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

Rewrote (b)2xvi.

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

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

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

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

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

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

### 10:128-3.9 Comprehensive general liability insurance

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

## SUBCHAPTER 4. PHYSICAL FACILITY REQUIREMENTS

### 10:128-4.1 Physical facility initial approval requirements for all homes located in New Jersey

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

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

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

ii. I-2 (Institutional) for buildings accommodating six or more children less than 2½ years of age.

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

i. Preliminary architectural drawings for review and comment prior to beginning construction; and

ii. If applicable, revised architectural or final drawings containing all required items listed in the preliminary plan review for final approval from the Office of Licensing before the home can open.

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

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

## SUBCHAPTER 5. STAFF REQUIREMENTS

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

(a) The director and every staff member shall:

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

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

1. A signed application for employment from each individual, indicating the applicant's name, address and telephone number; education and work experience; and disclosure of the presence or absence of criminal convictions;
2. Two written or two verbal references on each individual. These references shall be secured from former employers or other persons who have knowledge of the individual's work experience or education and who can attest to the individual's suitability to work with children. The verbal references shall be documented in writing by the home or agency;
3. Documentation from the Department showing compliance with a Criminal History Record Information background check, as specified in N.J.A.C. 10:128-5.6, and a Child Abuse Record Information background check, as specified in N.J.A.C. 10:128-5.7, for the director and each staff member, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent, and household member at least 18 years old in a treatment home, teaching family home, alternative care home or supervised transitional living home; and

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

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

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

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

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

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

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

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

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

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

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

3. In addition to the reporting requirements specified in 1 above, the home shall notify the Division case manager

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### 10:128-5.2 Staff qualifications

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

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

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

1. Be at least 21 years of age;
2. Have one of the following qualifications:
  - i. A bachelor's degree in social work, psychology or a related field from an accredited college or university and four years of professional experience in the human services field, two of which shall have been in a supervisory or administrative position;
  - ii. A master's degree from an accredited graduate school in social work, psychology, or a related field and

three years of professional experience in the human services field;

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

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

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

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

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

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

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

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

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

1. Be at least 21 years of age;

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

3. Have one of the following qualifications:

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

ii. A bachelor's degree in social work, psychology or a related field from an accredited college or university and one year of professional experience in the human services field, and meet one of the exemptions from social work certification or licensure as specified in

N.J.S.A. 45:15BB-5. Staff members who do not meet the qualifications in (d)3i above and provide services as specified in (d)2 above, shall:

(1) Only provide social work services in the course of employment with the home;

(2) Not provide psychotherapeutic counseling to residents;

(3) Not advertise or represent themselves as a licensed clinical social worker, licensed social worker or certified social worker; and

(4) Not use any title or name, the use of which is restricted by N.J.S.A. 45:15BB-4 of the Social Worker's Licensing Act; or

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

(3) Not use any title or name, the use of which is restricted by N.J.S.A. 45:15BB-4 of the Social Worker's Licensing Act; or

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

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

1. Be at least 18 years of age;

2. Provide daily care and supervision of the children;

3. Inform the social service staff members or director of any incidents that may impact on the child's treatment planning, as specified in N.J.A.C. 10:128-6.1, 6.2 and 6.3; and

4. Have one of the following qualifications:

i. A high school or high school equivalency diploma and one year of experience working with children in a group setting;

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

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

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

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

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

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

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

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

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

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

(g) The teaching family home program administrator shall:

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

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

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

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

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

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

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

(h) The teaching family consultants shall:

1. Be at least 21 years of age;

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

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

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

1. Be at least 18 years of age;

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

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

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

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

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

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

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

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

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

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

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

Rewrote (c)9.

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

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

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

### 10:128-5.3 Staff to child ratios

(a) Group homes and supervised transitional living homes shall meet the following staff to child ratios:

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

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

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

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

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

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

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

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

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

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

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

1. The child is at least 16 years of age;

2. The child does not have the responsibility to supervise other children in the home or is not supervised by other children in the home;

3. The treatment team, as specified at N.J.A.C. 10:128-6.1(b), documents in the child's treatment plan that the child has acquired the necessary skills that would enable the child to be in the home without a staff member present, including:

i. The ability to contact the police, ambulance or fire department in the event of an emergency;

ii. The ability to safely self-evacuate the home if there is a fire, gas leak or other potentially dangerous situation;

iii. The knowledge that strangers and visitors are not permitted in the home without the prior approval of the staff member; and

iv. If an adolescent mother with an infant, the ability to provide care and supervision of her child;

4. The treatment team, as specified at N.J.A.C. 10:128-6.1(b), documents in the child's treatment plan that the child has achieved treatment goals that would enable the child to be in the home without a staff member present. Such treatment goals may include, but are not limited to:

i. Regular attendance in school, vocational program or work;

ii. Consistent participation in counseling, based on the child's treatment plan, if applicable; and

iii. Demonstration by the child that he or she has not been involved in incidents of aggressive/assaultive behavior, damage or destruction of property, inappropriate sexual behavior or other behavioral or emotional episodes that would indicate that the child could be a potential risk to self or others;

5. The child does not require medication and/or psychotropic medication to be administered during the time that he or she is in the home unsupervised; and

6. The staff member does not permit the child to remain in the home unsupervised:

i. Because of his or her employment commitments;

ii. For overnight stays as a part of a vacation or outing; or

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

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

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

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

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

#### 10:128-5.4 Staff training and development

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

1. The home's statement of purpose, as specified in N.J.A.C. 10:128-3.1;

2. The home's behavior management policy and search and seizure policy, if any, as specified in N.J.A.C. 10:128-6.14 and 6.15;

3. Emergency procedures, as specified in N.J.A.C. 10:128-4.5(a), (b) and (c);

4. Protocols for medication, as specified in N.J.A.C. 10:128-7.4 and 5;

5. Infection control procedures, as specified in N.J.A.C. 10:128-7.8; and

6. The home's techniques for safe physical restraint, if applicable, as specified in N.J.A.C. 10:128-6.13(e)6.

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

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

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

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

#### 10:128-5.5 Volunteers and student interns

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

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

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

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

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

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

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

#### 10:128-5.6 Criminal History Record Information background checks

(a) As a condition of securing and maintaining a certificate, the home or agency shall ensure that a State and Federal Criminal History Record Information (CHRI) fingerprint background check, in keeping with P.L. 2003, c.186, is completed for the director and each staff member, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent, and household member at least 18 years old in a treatment home, teaching family home, alternative care home or supervised transitional living home.

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

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

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

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

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

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

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

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

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

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

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

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

7. Kidnapping and related offenses including criminal restraint, false imprisonment, interference with custody, criminal coercion, or enticing a child into a motor vehicle, structure, or isolated area pursuant to N.J.S.A. 2C:13-1 through 2C:13-5 and section 1 of P.L. 1993, c.291 (N.J.S.A. 2C:13-6);

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

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

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

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

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

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

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

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

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

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

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

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

4. The home or agency documents that the individual is uniquely qualified for the position due to specific skills,

qualifications, characteristics or prior employment experiences; and

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

(g) For crimes and offenses other than those cited in (e) above, an individual may be eligible to receive a certificate or to administer, work at or reside in a home or agency if the individual has affirmatively demonstrated to the Department clear and convincing evidence of rehabilitation.

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

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

ii. The nature and seriousness of the offense;

iii. The circumstances under which the offense occurred;

iv. The date of the offense;

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

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

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

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

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

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

4. For a current or prospective staff member, treatment home parent, teaching family home parent, alternative care home parent, supervised transitional living home parent or household member with a criminal conviction other than those cited in (e) above, the director of the home or agency

or the agency's board of directors shall make a determination regarding the individual's suitability upon the Department's determination that the individual has affirmatively demonstrated rehabilitation.

(h) If the director of a home or agency has knowledge that any individual specified in (a) above has criminal charges pending against the individual, the director shall promptly notify the Department to determine whether or not any action concerning the individual is necessary in order to ensure the safety of the children who are placed in the home.

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

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

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

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

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

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

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

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

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

agency seeking to employ that individual, if the home or agency has:

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

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

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

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

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

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

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

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

#### 10:128-5.7 Child Abuse Record Information background checks

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

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

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

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

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

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

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

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

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

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

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

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

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

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

agency shall notify the staff member in writing that the staff member may request a hearing to contest the substantiation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) For a home or agency located outside New Jersey, the home or agency shall ensure that the director and each

applicant or staff member meet all applicable laws and regulations in that state governing criminal history record background checks and child abuse record information checks that may be required as a condition of employment.

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

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

## SUBCHAPTER 6. PROGRAM REQUIREMENTS

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

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

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

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

2. For teaching family homes:

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

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

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

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

1. The name of the child;
2. The date of the child's admission;
3. Updated medical and dental examinations, as specified in N.J.A.C. 10:128-7.2;

4. The date when the plan is developed or revised;
5. The names and titles of all persons having input and/or attending the development or review meeting;
6. The child's social, familial, emotional, medical, behavioral, and academic strengths and weaknesses;
7. Family or friends' visiting schedule or reasons for not scheduling visits;
8. Specific treatment goals in each program area and projected time frame for completing each goal;
9. Persons responsible for the implementation of techniques to be used to achieve treatment goals and objectives;
10. Techniques to be used to achieve each treatment goal;
11. Criteria to be used to determine whether each treatment goal is achieved;
12. A notation of progress made from the previous plan;
13. Documentation of efforts to achieve timely discharge, including, but not limited to, services needed by parents or other persons to whom the child will be discharged; and
14. For children who are 16 years of age and over, how the child is being prepared for self-sufficiency. This documentation shall include, but not be limited to, instruction in:
  - i. Food preparation;
  - ii. Budgeting and money management; and
  - iii. Vocational planning and employment search efforts.

(f) Group homes, teaching family homes, alternative care homes and treatment homes shall send to the Division's case manager or other placing agency a copy of the treatment plan 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 four years after the child's discharge.

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

#### 10:128-6.2 Discharge planning

(a) For discharges that can be anticipated, the home shall develop a plan with the Division's case manager or other

placing agency staff at least 30 days before the child's discharge. The plan shall be sent to the Division's case manager or other placing agency and shall specify the following information:

1. The date of admission;
2. The anticipated or actual date of discharge;
3. Details of the events and circumstances leading to the decision to discharge;
4. The name and address of the individual or agency to whom the child will be discharged and the rationale for planning a discharge to that individual or agency; and
5. An assessment of the child's continuing needs, including, but not limited to, consideration of health care, behavior management and educational or vocational training.

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

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

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

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

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

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

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

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

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

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

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

**10:128-6.4 Work and employment**

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

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

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

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

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

**10:128-6.5 Money and allowance**

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

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

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

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

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

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

**10:128-6.6 Visitation and communication**

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

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

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

i. Informs the child of the conditions of and reasons for restriction or termination; and

ii. Documents in the child's record the reasons for curtailing contact with the specified individuals.

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

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

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

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

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

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

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

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

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

ii. The home shall provide adequate privacy for these telephone calls and all other calls but may locate the telephone in an area where a staff member can observe the child's reactions.

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

- i. The cost of the telephone calls is prohibitive; or
- ii. The home is complying with a court order which limits the child's contact with his or her parents.

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

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

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

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

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

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

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

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

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

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

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

#### 10:128-6.7 Education

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

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

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

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

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

1. Provide space within the home for such home instruction; and
2. Document when home instruction was provided.

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

1. Document in the child's record the reasons why educational programming is not feasible;
2. Maintain contact with the responsible school district and/or the local school district to ensure that the school districts are actively pursuing alternate educational programming; and
3. Document in the child's record what the child is doing during school hours.

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

#### 10:128-6.8 Recreation

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

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

1. The home shall ensure that this schedule is developed with input from staff members and children.
2. The home shall keep these schedules on file for 90 calendar days.

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

1. Inform children of appropriate activities in the community;
2. Teach children how to manage time and money to be able to participate in recreational activities; and
3. Teach children how to use public transportation.

#### 10:128-6.9 Religion

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

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

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

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

1. The home shall not punish children who choose not to participate in religious activities.
2. The home shall not give special rewards to children for participating in religious activities.

#### 10:128-6.10 Rest, bedroom and sleep

(a) The home shall ensure that:

1. Every child is provided with a standard household bed or crib, as age appropriate, in sanitary condition;
2. Every set of bunk beds is limited to two in height:
  - i. Have railings on top bunks that are no more than 3<sup>1</sup>/<sub>2</sub> inches from the top of the bed frame; and
  - ii. Have mattresses that are least five inches from the top of the railing;
3. Every bed or crib is equipped with a firm, sanitary, fire retardant mattress and waterproof mattress cover;
4. Every child is provided with sanitary bed linens that are changed weekly, a blanket or other suitable covering that is cleaned or replaced, as necessary, and a pillow;

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 10:128-6.11 Food and nutrition for children

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

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

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

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

4. The home shall provide table service for children.

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

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

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

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

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

3. The home shall follow individualized diets and eating schedules that are submitted to the home by the child's physician or registered dietitian.

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

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

In (a)3, substituted "Homes that serve between six and 12 children" for "The home".

#### 10:128-6.12 Pets

(a) The home shall ensure that pets kept by or located in the home, regardless of ownership, meet the appropriate local ordinances that permit the type(s) and quantities of animals, and shall be:

1. Domesticated and non-aggressive, or exotic animals that are permitted to be owned in accordance with the rules set forth by the New Jersey Department of Health and Senior Services or other applicable out-of-State agency;

2. Free from disease;

3. Vaccinated, if applicable, as prescribed by law or as recommended by a licensed veterinarian. The record of the vaccinations shall be maintained on file at the home, along with the name and address of the licensed veterinarian providing care for the pet;

4. If sick, removed from the area occupied by children, until the pet has been examined by a licensed veterinarian;

5. Effectively controlled by leash, command or cage; and

6. Prohibited from toilet facilities for staff members and children.

(b) The home shall ensure that animal waste is disposed of in a manner that prevents the material from becoming a

community health or nuisance problem. Accepted methods include:

1. Burial;

2. Disposal in sealed plastic bags; and

3. Utilization of:

i. A municipally approved trash removal system; or

ii. A sewage system for feces.

(c) The home shall ensure that all pet dishes, food and equipment used for pets are kept out of the home's food preparation and food serving areas when food is being prepared or served.

(d) If a pet poses a health hazard to children, the home shall take corrective action that is approved by the licensing agency.

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

#### 10:128-6.13 Restrictive behavior management practices

(a) Homes that choose to utilize restrictive behavior management practices shall develop policies and procedures that assist children in gaining control of their behavior, protect the children from self-harm, protect other children or staff members, and prevent the destruction of property.

(b) The home shall:

1. Obtain written approval from the Office of Licensing for restrictive behavior management practices that are not identified in (i) and (j) below, that the home plans to utilize, prior to their implementation with children; and

2. Not utilize restrictive behavior management practices as a means of punishment, for the convenience of staff members, or as a substitute for a treatment program.

(c) Prior to the child's admission, the home shall:

1. Explain to the parents, the child, the Division's case manager or other placing agency any restrictive behavior management practice that is used, the circumstances under which it will be employed, and the possible risks involved; and

2. Obtain written consent for the use of each restrictive behavior management practice the home uses from the child's parents or legal guardian.

(d) The home shall ensure that the consent form is written in plain language and is explained to the parents.

(e) Whenever the parents refuse to consent to a restrictive behavior management practice, revoke their consent for the practice, or cannot be located to give consent, the home shall:

(f) The home shall encourage the self-administration of medication by properly trained and supervised children whenever their intellectual, emotional and physical capabilities make such practice appropriate and feasible. This shall be documented in each child's treatment plan.

(g) The home shall ensure that the following procedures for storage are followed:

1. Group homes, teaching family homes, and treatment homes shall keep all prescription and non-prescription drugs in a locked cabinet or container, or, as needed, in a locked box in a refrigerator. The home shall ensure that the keys to the locked cabinets, containers and locked boxes are adequately safeguarded and maintained by staff members and are kept out of the reach of the children;
2. Supervised transitional living homes shall keep prescription drugs in a cabinet or container, or, as needed, in a refrigerator;
3. All outdated stocks and prescriptions no longer in use shall be disposed of safely as follows:
  - i. Liquid medication shall be poured down the drain, the bottles rinsed out and then disposed of in the trash; and
  - ii. Pills, tablets and capsules shall be flushed down the toilet before the bottle or packet is disposed of in the trash or disposed of in a locked bio-hazard container that is then picked up by a licensed bio-hazard disposal company;
4. The telephone number of the regional poison control center shall be posted at all medication-dispensing stations and by each telephone; and
5. Staff members shall have access to medical supplies at all times.

(h) In situations where the home determines that an adolescent is capable of self-administration of prescription birth control-related supplies, the home may allow the adolescent to maintain prescription birth control-related supplies amongst her personal possessions provided that the home:

1. Provides a locked cabinet or box for storage; and
2. Documents in the treatment plan the rationale and arrangements for the adolescent to maintain prescription birth control-related supplies.

#### 10:128-7.5 Psychotropic medication

(a) The home shall not administer medication to children as a punishment, for the convenience of staff members or as a substitute for a treatment program.

(b) The home shall ensure that a pre-treatment clinical assessment, based on behaviors exhibited by the child and observed by staff members, is conducted by a licensed physician before psychotropic medication is prescribed. This

pre-treatment clinical assessment shall include at least the following information:

1. A comprehensive drug history, including consideration of the use of all prescription and non-prescription drugs by the child as well as a history of cardiac, liver, renal, central nervous system or other diseases, a history of drug allergies and dietary information;
2. A laboratory work-up, including, but not limited to:
  - i. A complete blood count (If the medication prescribed requires routine follow-up blood work, this blood count test shall be administered prior to the child's beginning his or her medication regimen. If the medication prescribed does not require routine follow-up blood work, a new blood count test is not required as long as the child has had a blood count test within one year of admission, unless the physician determines otherwise);
  - ii. Urinalysis;
  - iii. Blood screening to include an assessment of liver and renal functions, if indicated; and
  - iv. Cardiogram (EKG) and electroencephalogram (EEG), as indicated, on children with previous histories of cardiac abnormalities or central nervous system disorders; and
3. A written description of:
  - i. The purpose of the medication, the specific behavior(s) of the child to be modified and ways in which progress towards the treatment objectives will be measured;
  - ii. The dosage; and
  - iii. How possible side effects will be monitored and reported to the physician who prescribed the medication.

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

1. The home has the necessary amount(s) of medication to administer to the child during any extended time period;
2. The home has consulted with the physician who previously prescribed the medication; and
3. The home documents the above-noted consultation in the child's record.

(d) The home shall not be obligated to comply with (b) above and (e) below, for a pre-treatment clinical assessment and informed consent for psychotropic medication other than long-acting drugs if the treating physician certifies in

the child's clinical record that the child presents a danger to self and/or others.

1. The initial decision to administer emergency medication shall be based on a personal examination of the child by a physician.

2. The initial administration of emergency medication may extend for a maximum period of 72 hours.

3. A physician may authorize the administration of medication for an additional 72 hours upon determination that the continuance of medication on an emergency basis is clinically necessary. This authorization may be given by telephone, provided that it is countersigned by the physician and certified as to the necessity in the child's clinical record within 24 hours. If this medication is then deemed necessary for the child's treatment while in the home, the physician shall complete the pre-treatment clinical assessment as specified in (b) above.

4. The home's staff members shall document that the psychotropic medication was administered in an emergency situation. The documentation shall identify possible side effects to be monitored as described in (b)3iii above.

(e) Before administering psychotropic medication, the home shall obtain written informed consent from the child's parent(s) or legal guardian, and from all children 14 years of age and older unless the home documents that the child lacks the capacity for informed consent. In cases where both a parent and legal guardian exist, the home shall seek written informed consent from the legal guardian.

1. A physician, registered nurse or staff member trained in administering psychotropic medication shall obtain written informed consent.

2. The person requesting written informed consent shall ensure that parents, guardians and children are informed about:

- i. The behavior or symptoms which the medication is intended to modify;
- ii. The dosage; and
- iii. How possible side effects of the medication will be treated.

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

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

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

- ii. The home obtains the written informed consent from the child's parents or legal guardian within 72 hours of receiving the verbal informed consent.

5. If the home cannot obtain written informed consent or verbal informed consent, the home shall use certified mail, return receipt requested, and shall send the request to the parent's or legal guardian's last known address at least 10 calendar days before the proposed date for the commencement of treatment. The written notice shall specify:

- i. The proposed date for beginning of treatment; and
- ii. That a failure to respond by the proposed date for the beginning of treatment shall empower the director, after consultation with the Division's case manager or other placing agency to grant consent for the medication.

6. The home shall document all methods for requesting written consent in the child's record.

(f) When a parent, legal guardian or child refuses or revokes consent for medication, the following procedures shall apply:

1. The treating physician or his or her designee shall speak to the child or the parent or both to respond to the concerns about the medication. This person shall explain the child's condition, the reasons for prescribing the medication, the benefits and risks of taking the medication, and the advantages and disadvantages of alternative courses of action;

2. If the child or parent or legal guardian continues to refuse or revokes consent to medication and the physician or his or her designee still believes that medication is a necessary part of the child's treatment plan:

- i. The director of the home shall invite the child and parent to attend a meeting with the treatment team to discuss the treating physician's recommendations and the concerns of the child or parent or legal guardian; and
- ii. The treatment team shall attempt to formulate a viable treatment plan that is acceptable to the child, parent and legal guardian;

3. If, after the treatment team meeting, the child or parent or legal guardian continues to refuse or revoke consent to medication and the treating physician still believes that medication is a necessary part of the child's treatment plan, the home shall obtain an independent psychiatric review. The psychiatrist conducting this independent assessment shall review the child's clinical record, conduct a personal examination of the child, and provide a written report for the child's treatment team; and