

## **CABINET FOR HEALTH AND FAMILY SERVICES**

### **Department for Community Based Services**

#### **Division of Protection and Permanency**

#### **(Amended After Comments)**

### **922 KAR 1:300. Standards for child-caring facilities.**

RELATES TO: KRS 2.015, 13B.050, 17.165(6), 17.500(8), 189.125(3), 198B.050-198B.090, 199.011, 199.640, 199.642, 199.650, 199.660, 199.670, 211.350-211.380, 214.034(5), Chapter 271B Subtitle 8, 273.161(7), Chapter 424, 600.020(23), 605.080(3), 605.090(1), 610.110(6), 615.010, 615.030, 615.040, 620.020, 620.030, 620.090(2), 620.140(1), 620.230(3), 20 U.S.C. 7183, 42 U.S.C. 677(a)(1)-(6)

STATUTORY AUTHORITY: KRS 194A.050(1), 199.640(5), 199.645, 605.150, 615.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate, administer, and enforce administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. KRS 199.640(5) requires the cabinet to promulgate administrative regulations establishing basic standards of care and service for child-caring facilities and child-placing agencies. KRS 605.150 authorizes the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 605. KRS 615.050 authorizes the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 615. This administrative regulation establishes basic standards of care and service for child-caring facilities.

#### **Section 1. Definitions.**

(1) "Aftercare" means a service provided to a child after discharge from a child-caring facility.

(2) "Board of directors" is defined by KRS 273.161(8).

(3) "Cabinet" is defined by KRS 199.011(3).

(4) "Case" means an individual child or family being provided services by a child-caring facility social worker or counselor.

(5) "Chemical restraint" means a drug used as a restraint that is a medication used to control behavior or to restrict the patient's freedom of movement and is not a standard treatment for the patient's medical or psychiatric condition.

(6) "Child" is defined by KRS 199.011(4) and 600.020(9) and may include:

(a) A person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6) or 620.140(1)(d);  
or

(b) A person who meets the exceptions to the age of majority in accordance with KRS 2.015.

(7) "Child with medical complexity" means a child who is determined to have a medical condition pursuant to 922 KAR 1:350, Section 4(1)(b).

~~(8)~~ "Child-caring facility" is defined by KRS 199.011(5).

~~(9)~~ ~~{(8)}~~ "Child-placing agency" is defined by KRS 199.011(6).

~~(10)~~ ~~{(9)}~~ "Child-caring program" means the method of delivering a child-caring service.

~~(11)~~ ~~{(10)}~~ "College or university" means:

(a) An institution accredited by one (1) of the regional accrediting organizations recognized by the U.S. Department of Education, Office of Postsecondary Education;

(b) For a Kentucky institution, one (1) that is licensed by the Kentucky Council on Postsecondary Education or the Kentucky Board for Proprietary Education; and

(c) For an out-of-state institution, one (1) that is licensed in its home state if licensure is required in that state.

- (12) ~~((11))~~ "Community resource" means a service or activity available in the community that supplements those provided by the child-caring facility or child-placing agency in the care and treatment of a child.
- (13) ~~((12))~~ "Corporal physical discipline" means reasonable physical discipline in accordance with KRS 199.640(6).
- (14) ~~((13))~~ "Crisis intervention unit" means a unit that serves a child in need of short-term intensive treatment, to avoid risk of placement to a higher level of care.
- (15) ~~((14))~~ "De-escalation plan" means a treatment method used to decrease the intensity of emotional conflict or aggressive behavior.
- (16) ~~((15))~~ "Direct child-care staff" means a child-caring facility employee or volunteer providing face-to-face care and supervision of a child.
- (17) ~~((16))~~ "Discharge" means a planned release of a child from a child-caring facility program.
- (18) ~~((17))~~ "Emergency discharge" means the release of a child from a program as a result of a circumstance that presents a risk to the health or safety of a child.
- (19) ~~((18))~~ "Emergency shelter child-caring facility" means a child-caring facility that meets the requirements of 922 KAR 1:380.
- (20) ~~((19))~~ "Executive director" means the person employed by the board of directors to be responsible for the administration and management of a child-caring facility.
- (21) ~~((20))~~ "Group home" is defined at KRS 199.011(11).
- (22) ~~((21))~~ "Independent living services" means services provided to an eligible child, as described in Section ~~11~~~~18~~ of this administrative regulation, to assist the child in the transition from dependency of childhood to living independently.
- (23) ~~((22))~~ "Individual treatment plan" or "ITP" means a plan of action developed and implemented to address the needs of a child.
- (24) ~~((23))~~ "Indoor living area" means an area in the child-caring facility that is separate from a hallway, bedroom, kitchen, stairway, vestibule, bathroom, closet, unfinished basement, or attic.
- (25) ~~((24))~~ "Institution" is defined by KRS 199.011(12).
- (26) ~~((25))~~ "**Latched seclusion**~~[Latching device]~~" means an instrument **is** used to secure a seclusion room door that does not require the use of a key or combination.
- (27) ~~((26))~~ "Living unit" means a building or part thereof in which a child resides, not exceeding sixteen (16) beds.
- (28) ~~((27))~~ "Permanence" is defined by KRS 620.020(9).
- (29) ~~((28))~~ "Physical management" means a technique used by a specially-trained staff member for the purpose of restricting a child's freedom of movement in order to maintain a safe environment for the child and others.
- (30) ~~((29))~~ "Qualified mental health professional" is defined by KRS 600.020(52).
- (31) ~~((30))~~ "Qualified professional in the area of intellectual disabilities" is defined by KRS 202B.010(12).
- (32) ~~((31))~~ "Reasonable and prudent parenting standards" is defined by 42 U.S.C. 675(10).
- (33) ~~((32))~~ "Seclusion" means the temporary placement of a child in a room in a residential treatment facility to prevent harm to the child or others.
- (34) ~~((33))~~ "Sex crime" is defined by KRS 17.500(8).
- (35) ~~((34))~~ "Social services" means a planned program of assistance to help an individual move toward a mutual adjustment of the individual and his social environment.
- (36) ~~((35))~~ "Time-out" means a treatment intervention utilized by child-caring staff to separate a child from others in a non-secure area for a time-limited period, in order to permit the child to regain control over his behavior.
- (37) ~~((36))~~ "Treatment" means individualized management and care of a child, utilizing professionally credentialed and certified staff and a component of the treatment

environment to assist the child in resolving his or her emotional conflict or behavioral disorder.

~~(38)~~ ~~[(37)]~~ "Treatment director" means an individual who oversees the day-to-day operation of the treatment program.

~~(39)~~ ~~[(38)]~~ "Treatment professional" means an individual with the following credentials or an individual with a master's degree in a human services field practicing under the direct supervision of an individual with the following credentials:

- (a) A licensed psychiatrist;
- (b) A certified or licensed clinical psychologist;
- (c) A licensed clinical social worker;
- (d) A licensed marriage and family therapist;
- (e) A licensed professional clinical counselor;
- (f) A licensed professional art therapist;
- (g) A licensed clinical alcohol and drug counselor; or
- (h) A licensed behavior analyst.

~~(40)~~ ~~[(39)]~~ "Treatment team" means a representative group of people who provide services to the child and the child's family.

~~(41)~~ ~~[(40)]~~ "Unplanned discharge" means the release of a child from the child-caring facility that is not in accordance with the ITP.

## Section 2. Operations and Services.

(1) This administrative regulation establishes standards for the following child-caring facilities:

- (a) An emergency shelter child-caring facility, also governed by 922 KAR 1:380;
- (b) An emergency shelter child-caring facility with treatment, also governed by 922 KAR 1:380, Section 3;
- (c) A residential child-caring facility, including:
  - 1. A group home; and
  - 2. An institution; and
- (d) A residential treatment program, including:
  - 1. A crisis intervention unit;
  - 2. A group home; and
  - 3. An institution.

(2) Except for a child-caring facility maintaining a license prior to October 16, 2000, a child-caring facility shall not be located or operated on the grounds of a psychiatric hospital.

## Section 3. Administration and Operation.

(1) The licensing procedure for a child-caring facility shall:

- (a) Be administered as established in 922 KAR 1:305; and
- (b) Based upon the services provided, meet the requirements of this administrative regulation, 922 KAR 1:290, and 922 KAR 1:380.

(2) Board of directors.

(a) The child-caring facility shall have a board of directors in accordance with KRS Chapter 271B, Subtitle 8.

(b) The board of directors shall:

- 1. Consist of at least seven (7) members;
- 2. Meet at least quarterly;
- 3. Cause minutes of each meeting to be taken and kept in written form;
- 4. Have the authority and responsibility to ensure continuing compliance with this administrative regulation and other relevant federal, state, and local law;
- 5. Have procedures in place to ~~ensure~~~~[insure]~~ that its staff receives ongoing training as defined in subsection (6)(o) of this section;

6. Obtain a ~~background[criminal records]~~ check consistent with KRS 199.642 and 922 KAR 1:290[17.165] of prior convictions of the executive director prior to employment; and

7. Approve a mission statement delineating:

- a. The purpose;
- b. Objective; and
- c. Scope of service to be provided.

(3) Executive director.

(a) Duties of the executive director shall be determined by the board of directors.

(b) The executive director shall be responsible for the child-caring facility and its affiliates in accordance with the child-caring facility's written policy.

(c) If the executive director is not on the premises and not available to make decisions, a designated staff person shall be responsible for the day-to-day operation of the child-caring program.

(d) The executive director shall oversee and report to the board on a quarterly basis, providing an evaluation of program services addressing measurable goals, staff training, and incident reports.

(e) The criteria and process of the quarterly evaluation shall be approved by the board.

(4) Staff qualifications.

(a) A person employed as an executive director after the effective date of this administrative regulation shall possess the following qualifications:

1. A master's degree in business administration or a human services field from a college or university, supplemented by two (2) years of work experience in or management of a human services program related to working with families and children; or

2. A bachelor's degree in a human services field from a college or university, supplemented by four (4) years' work experience in management of a human services program related to working with families and children.

(b) A treatment director or person employed by the child-caring facility in a position responsible for supervising, evaluating, or monitoring social work and related activities shall:

1. Hold at least a master's degree in a human service discipline; and

2. Have at least five (5) years' experience in mental health treatment of children with emotional or behavioral disabilities and their families and be responsible for the:

- a. Supervision;
- b. Evaluation; and
- c. Monitoring of the:
  - (i) Treatment program;
  - (ii) Social work; and
  - (iii) Other treatment staff.

(c) A residential child-caring facility providing a treatment service for more than thirty (30) children shall employ a separate treatment director other than the executive director.

(d) A residential child-caring facility providing a treatment service for thirty (30) or fewer children may utilize the executive director in a dual role as treatment director, if at least fifty (50) percent of his duties are spent supervising the treatment program. If an employee serves as both executive director and treatment director, the higher staff qualification requirements shall apply.

(e) An employee responsible for social work, counseling, or planning and coordinating these services for a child shall have at least a bachelor's degree in a human services field from a college or university.

(f) A person employed in a position responsible for supervising, evaluating, or monitoring the daily work of direct child-care staff shall possess at least:

1. Two (2) years of education from a college or university and two (2) years of work experience in a child-caring facility; or
2. A high school diploma, or an equivalence certificate, and at least five (5) years of work experience in a child-caring facility.

(g) A person employed in a position responsible for the daily direct care or supervision of a child shall possess at least a high school diploma or equivalency certificate.

(h) If an employee is responsible for varied job responsibilities and falls within more than one (1) of the categories specified, the employee shall meet the more rigorous qualifications.

(i) A child-caring facility contracting for the services of a social worker or treatment director not on the staff of the child-caring facility shall document that the social worker or treatment director meets the qualifications established in paragraphs (b) and (e) of this subsection. An agreement for provision of service shall be on file at the child-caring facility, and shall specify the qualifications of the social worker or social services professional.

(5) Staffing requirements.

(a) The child-caring facility shall have:

1. A written policy describing a child-to-direct-child-care-staff ratio that is consistent with the staff-to-child ratios required in paragraph (b) of this subsection; and
2. An explanation of the assignment of staff in order to:
  - a. Ensure the health and safety of a child; and
  - b. Implement the child-caring program.

(b) Staff-to-child ratios for each type of facility shall be as follows:

1. An emergency shelter child-caring facility: one (1) staff member to ten (10) children at all times.
2. An emergency shelter child-caring facility with treatment: one (1) staff member to six (6) children at all times.
3. A residential child-caring facility:
  - a. One (1) staff member to ten (10) children age six (6) and over; and
  - b. One (1) staff member to five (5) children under age six (6).
4. A residential child-caring facility with treatment:
  - a. One (1) staff member to six (6) children; and
  - b. One (1) staff member to twelve (12) children during sleeping hours.
5. A crisis intervention unit:
  - a. One (1) staff member to four (4) children; and
  - b. One (1) staff member to six (6) children during sleeping hours.
6. A group home:
  - a. One (1) staff member to four (4) children; and
  - b. One (1) staff member to accompany a child while away from the home.
7. An institution: one (1) staff member to ten (10) children.

(c) There shall be at least one (1) staff member present in each child-caring facility building if a child is present.

(d) At least one (1) staff member certified in first aid and cardiopulmonary resuscitation shall be on the premises, if a child is present.

(e) The child-caring facility shall have a written work schedule and a policy that provides for utilization of relief staff.

(f) The child-caring facility shall employ an individual who is responsible for the overall planning and coordinating of social services for a family and child.

(g) Social services staff shall not carry a caseload of more than fifteen (15) children and their families.

(6) Personnel policy.

(a) A child-caring facility shall have and comply with a written personnel policy and procedure.

(b) An employee of the child-caring facility shall be at least eighteen (18) years of age and, effective July 1, 2022, newly-hired direct care staff shall be at least twenty-one (21) years of age unless the agency has an agreement with a college or university to employ students.

(c) The employment of an individual shall be governed by KRS 199.642 and 922 KAR 1:290~~[17.165]~~, with regard to a **background**~~[criminal records]~~ check.

(d) A new **background**~~[criminal record]~~ check shall be completed at least every ten (10)~~[two (2)]~~ years pursuant to 922 KAR 1:290 on each staff member, as defined by KRS 199.642(1)~~[employee or volunteer]~~.

~~(e) [An employee under indictment or legally charged with a violent or sex crime as defined in KRS 17.165 shall be immediately removed from contact with all children within the child-caring facility until the employee is cleared of the charge.]~~

~~[(f)] [Each employee or volunteer shall submit to a check of the central registry pursuant to 922 KAR 1:470. An individual listed on the central registry shall not be a volunteer at or be employed by a child-caring facility.]~~

~~[(g)]~~ Each licensee shall report to the cabinet and each child-caring facility employee or volunteer shall report to the licensee or facility's director, an incident that occurs subsequent to the most recent **background**~~[central registry]~~ check, if the employee or volunteer:

1. Is the subject of a cabinet child abuse or neglect investigation;
2. Has been found by the cabinet or a court to have abused or neglected a child; or
3. Has been indicted for or charged with a violent or sex crime as defined in KRS 17.165.

~~[(f)] [(h)] [An individual shall not be left alone in the presence of any child if a central registry check has not been completed.]~~

~~[(i)]~~ Determination by the cabinet of risk of potential harm by an employee to a child in a child-caring facility shall result in:

1. Investigation of the employee for evidence of child abuse or neglect; and
2. The removal of the employee from direct contact with all children:
  - a. For the duration of the investigation **or until documentation has been signed by the Division of Protection and Permanency director or designee and provided to the agency that states the employee may resume regular duties;** and
  - b. **If substantiated and appealed,** pending completion of the administrative appeal process in accordance with 922 KAR 1:320;

(g) ~~[(j)]~~ A current personnel record shall be maintained for each employee that includes the following:

1. Name, address, Social Security number, date of employment, and date of birth;
2. Evidence of a current registration, certification, licensure, and college credentials, if required by the position;
3. Record of ongoing participation in an agency staff development program as specified in paragraphs (n) and (o) of this subsection;
4. Record of performance evaluation;
5. **Background** ~~[Criminal records]~~ check as required by paragraph (c) of this subsection;
6. ~~[Documentation of a central registry check completed every two (2) years in accordance with 922 KAR 1:470;]~~

~~{7.}~~ Personnel action; and

~~7. {8.}~~ Application for employment, resume, or contract.

~~(h) {(k)}~~ A child-caring facility shall retain an employee personnel record for at least five (5) years after termination of employment.

~~(i) {(l)}~~ An employee shall document compliance with a requirement for meeting state or national professional standards, as set forth in the job description.

~~(j) {(m)}~~ The child-caring facility shall have a record of participation and successful completion of an ongoing staff and volunteer development program.

~~(k) {(n)}~~ The staff development program shall be under the supervision of a designated staff member; and

~~(l) {(o)}~~ Full-time direct child care staff shall have at least forty (40) hours, and part-time direct child care staff shall have at least twenty-four (24) hours, of training specific to the tasks to be performed and of annual training in the following:

1. Emergency and safety procedure;
2. Principle and practice of child residential care;
3. Behavior management, including de-escalation training;
4. Physical management for a child-caring facility using the technique;
5. First aid;
6. Personnel orientation; and
7. Trauma-informed care.

~~(m) {(p)}~~ A volunteer who functions as a professional or direct staff member without compensation shall meet the same general requirements and qualifications.

~~(n) {(q)}~~ A child-caring facility using physical management shall:

1. Develop and maintain clearly-written policy and procedure governing the use of physical management of a child, including a requirement for a de-escalation plan, in accordance with Section 8(3) of this administrative regulation;
2. Require a staff member who conducts physical management to complete at least sixteen (16) hours of annual training in approved methods of de-escalation and physical management from a nationally-recognized accreditation organization approved by the cabinet, as part of the annual training required by paragraph ~~(l){(o)}~~ of this subsection, to include:
  - a. Assessing physical and mental status, including signs of physical distress;
  - b. Assessing nutritional and hydration needs;
  - c. Assessing readiness to discontinue use of the intervention; and
  - d. Recognizing when medical or other emergency personnel are needed.

~~(o) {(r)}~~ The program director shall review and analyze instances of physical management in order to:

1. Assure compliance with Section 5(2)(f) through (h) of this administrative regulation and the child-caring facility policy;
2. Provide documentation of a plan of action to prevent injury to a child or staff as a result of the use of physical management; and
3. Review each incident no later than one (1) working day after its use.

~~(p) {(s)}~~ A child-caring facility shall develop and maintain clearly written policies and procedures governing professional boundaries for an employee or volunteer working with children.

~~(q) {(t)}~~ A child-caring facility shall develop and maintain clearly written policies and procedures governing smoking prohibitions, in accordance with 20 U.S.C. 7183 and 922 KAR 2:120, Section 3(10).

(7) Interstate placement.

(a) Before accepting a child from another state or placing a child in another state, the child-caring facility shall be in compliance with:

1. Applicable provisions of the Interstate Compact on Placement of Children, KRS 615.030 or 615.040; and
  2. The Interstate Compact for Juveniles, KRS 615.010.
- (b) If a child committed to the cabinet makes a brief visit out of state for age- or developmentally-appropriate activities, not accompanied by child-caring facility personnel, the child-caring facility shall employ reasonable and prudent parenting standards for careful and sensible parental decisions that maintain the health, safety, and best interests of the child prior to determining whether to allow the child to participate in extracurricular, enrichment, cultural, and social activities.
- (c) If an emergency placement of a child into a licensed child-caring facility is made, the placement source shall be responsible for compliance with KRS 615.030 to 615.040. If the receiving child-caring facility is aware of noncompliance by the placement source, the child-care facility shall notify the cabinet's interstate compact coordinator.
- (8) Record retention. A child-caring facility shall:
- (a) Retain all records, books, and reports related to financial conditions and status for auditing purposes for a minimum of five (5) years; and
  - (b) Make available all books, records, and financial information for review, inspection, auditing, and photocopying by the cabinet or cabinet designee, authorized federal and state agency reviewers and auditors.
- (9) A residential child-caring facility shall become accredited by a nationally recognized accreditation organization within two (2) years of initial licensure.

#### Section 4. Physical Plant.

- (1) A child-caring facility shall comply with applicable state and local law relating to:
  - (a) Construction;
  - (b) Sanitation; and
  - (c) Building maintenance.
- (2) The child-caring facility shall conform to the Kentucky Standards of Safety in accordance with 815 KAR 10:060.
- (3) A climate control system shall be provided as follows:
  - (a) A minimum temperature of sixty-five (65) degrees Fahrenheit maintained in occupied areas in cold weather conditions;
  - (b) In warm weather conditions and periods of extreme heat, an occupied area shall be properly ventilated;
  - (c) If not air-conditioned and the temperature in an occupied area exceeds eighty-five (85) degrees Fahrenheit, the child-caring facility director shall assure that the following occurs:
    1. A fan is utilized to circulate air;
    2. The child-caring facility is properly ventilated to outside air;
    3. Ice water is readily available and served to residents; and
    4. Staff frequently monitor residents for a sign or symptom of a heat-related illness.
- (4) The water supply shall be from an approved source and easily available from the following:
  - (a) Drinking fountain;
  - (b) Refrigerator; or
  - (c) Cold water tap.
- (5) The plumbing and waste disposal systems shall comply with applicable provisions of the Uniform State Building Code, KRS 198B.050, and with laws regarding on-site sewage disposal, KRS 211.350 to 211.380, if applicable.
- (6) Housekeeping and maintenance service.



- (a) The building and its content shall be maintained in a clean and safe condition and in good repair.
  - (b) A maintenance plan shall be implemented.
  - (c) The child-caring facility shall ensure that the grounds and outdoor equipment are well kept and the exterior of the building is in good repair.
  - (d) The interior of the building and its contents shall be in good repair.
  - (e) Garbage and trash shall be:
    - 1. Stored in an area separate from those used for the preparation and storage of food;
    - 2. Removed from the premises regularly; and
    - 3. Placed in a container that is cleaned regularly.
  - (f) Insecticides, pesticides, and chemical poisons shall be plainly labeled and stored in a secure, locked area. Access shall be given to:
    - 1. The facility's maintenance personnel; and
    - 2. A pest control company with which the facility has a contract.
- (7) Bedroom.
- (a) A bedroom shall be:
    - 1. Of adequate size to permit at least three (3) linear feet between each bed or set of bunk beds; and
    - 2. Constructed to allow no more than four (4) residents per room.
  - (b) A bedroom for a child above age three (3) shall be equipped with an individual bed for each child that shall be:
    - 1. Long and wide enough to accommodate the child's size;
    - 2. Developmentally appropriate for the child; and
    - 3. Equipped with a support mechanism and a clean mattress.
  - (c) A bed occupied by a child shall be placed so that the child shall not experience discomfort because of:
    - 1. Proximity to a radiator or heat outlet; or
    - 2. Exposure to drafts.
  - (d) Siblings may share sleeping quarters, including siblings over the age of five (5) if indicated in an ITP.
  - (e) Storage space shall be provided for each child to accommodate his or her personal belongings in a:
    - 1. Closet and drawers; or
    - 2. Closet for the child's exclusive use and shelves within the closet.
  - (f) A child shall not be housed in a room, detached building, or enclosure that has not previously been inspected and approved for resident use.
  - (g) A child shall be provided with clean bed linens, laundered at least once a week, and a waterproof mattress covering.
  - (h) An exception to this subsection shall be documented with clear safety reasons for the exception and there shall be a written safety plan in place for the duration.
- (8) Indoor living area. An indoor living area shall have:
- (a) At least thirty-five (35) square feet per child; and
  - (b) Comfortable furnishings adequate for the number of children served.
- (9) Bathroom.
- (a) For every six (6) children residing in the living unit, a living unit shall have a minimum of:
    - 1. One (1) wash basin with hot and cold water;
    - 2. One (1) flush toilet; and
    - 3. One (1) bath or shower with hot and cold water.
  - (b) A child shall be provided with access to:
    - 1. Toilet paper;
    - 2. Towels;

3. Soap; and
  4. A wastebasket.
- (c) Each bathtub and shower shall have an enclosure or screen for individual privacy. If more than one (1) toilet is located in the same bathroom, each toilet shall:
1. Be partitioned; and
  2. Include a door capable of remaining closed.
- (d) A bathroom shall contain at least one (1) nondistorting mirror secured to the wall at a convenient height.
- (10) The use of cameras to monitor youth bedrooms and bathrooms is prohibited except with the written consent of the director of the Division of Protection and Permanency or designee. A request for exception to this subsection shall include the reason for the request that relates to an immediate safety issue for the youth.

## Section 5. Health, Safety, and Nutritional Requirements.

### (1) Health.

- (a) A child-caring facility shall have written policy and procedure for health and medical care, to include provisions for:
1. The care and disposition of an ill child; and
  2. Emergency care.
- (b) The service of a physician, or other licensed qualified health professional, shall be made available to a child. If the service of a licensed physician or other professional is not available in the community, the child-caring facility shall request the assistance of the:
1. County health department; or
  2. The Department for Public Health.
- (c) Staff shall follow licensed physician orders for:
1. Medicine;
  2. Prescription; and
  3. Medical care.
- (d) Except for a weekend or holiday, within forty-eight (48) hours of admission to a child-caring facility, a child shall have:
1. An initial health screening for illness, injury, and communicable disease or other immediate needs, by a nurse or trained child-care staff;
  2. After the initial health screening, a physical examination by a licensed physician or a qualified person under the supervision of a licensed physician, within two (2) weeks of admission, unless it has been documented that the child has received an examination during the past twelve (12) months; and
  3. The examining professional shall report, in writing, observations and findings including:
    - a. Developmental history of the child, illnesses, operations, and immunizations if available to the professional;
    - b. A limitation the child may have that may prevent participation in an activity scheduled by the child-caring facility;
    - c. Visual and auditory examination results;
    - d. Recommendation and order for future care, treatment, and examinations;
    - e. TB skin test results, unless contraindicated by a qualified person under the supervision of a licensed physician; and
    - f. Other tests for communicable disease as indicated by the medical and social history of the child.
- (e) An annual physical examination shall be scheduled and documented as required by paragraph (d)3. of this subsection.

(f) Upon admission, the child-caring facility shall consult with a physician, or other licensed qualified health professional, if there is evidence that the child may require medical attention.

(g) The child-caring facility shall develop a procedure for a child requiring a specific provision for an infectious medical condition.

(h) A separate health record shall be maintained for each child, kept on the premises, and be made available to a:

1. Physician;
2. Nurse; or
3. Designated staff member.

(i) The health record shall contain the following:

1. Copy of each physical examination, including any recommendations for treatment;
2. Previous and continuing health and medical history, if available;
3. Record or report of each test, immunization, periodic reexamination, and physician order and instruction;
4. Report and date of each dental examination and treatment;
5. Authorization for regular and emergency medical, dental, and surgical care, signed at admission by the legal custodian;
6. Documentation of medication administered to the child; and
7. Documentation of a special provision made for the child in accordance with a physician's order.

(j) A child's medical need shall be provided for as recommended by a licensed physician or other licensed qualified health professional.

(k) The facility shall keep an immunization certificate on file for each child, in accordance with KRS 214.034(5).

(l) If a child dies while in the care of a child-caring facility or in a home operated or supervised by the child-caring facility:

1. The child-caring facility shall immediately notify the:
  - a. County coroner;
  - b. Child's parent;
  - c. Guardian or custodian; and
  - d. Cabinet staff;
2. A verbal report of the death shall be made immediately to the Commissioner of the Department for Community Based Services;
3. A written comprehensive report from the executive director outlining the incident shall be forwarded to the Office of the Commissioner, Department for Community Based Services, on the next working day following the verbal report; and
4. If a child's death occurred as a result of alleged abuse or neglect, the executive director of the child-caring facility shall make verbal and written reports as required by KRS 620.030(1) and (2).

(m) Upon discharge, medical information shall follow the child if a release form has been obtained.

(n) Unless a dental examination has been performed in the six (6) months preceding admission, the child-caring facility shall document within one (1) week after a child's admission a scheduled dental examination within thirty (30) days or the reason the dental examination was not obtained within the timeframe. The facility shall ensure the treatment of emergency dental needs by a licensed dentist as they arise.

(o) A child age two (2) years and above shall be examined at least annually by a licensed dentist.

(p) The child-caring facility shall:

1. Document the information required by this subsection; and

2. Assure the confidentiality of the information.
- (q) The child-caring facility shall maintain a continuous program of personal hygiene.
- (r) Medication shall be stored in a manner that is inaccessible to a child.
- (s) A child-caring facility that accepts placement of a child with medical complexity shall:
  1. Consult with the cabinet medically complex liaison about the child prior to accepting the placement;
  2. Obtain written documentation from a licensed health care provider stating that the direct care staff has received training on meeting the specific needs of the child prior to placement;
  3. Submit to the cabinet medically complex liaison written documentation containing the plan to meet the child's specific medical needs based on the licensed health care provider's plan of care and the training required by subparagraph 2. of this paragraph prior to placement;
  4. Ensure that the facility is located within one (1) hour of a medical hospital with an emergency room and within thirty (30) minutes of a local medical facility; and
  5. Require designated staff to have attended the cabinet training on children with medical complexity.
- (2) Safety.
  - (a) A child shall be instructed in fire prevention, safety, and fire emergency procedures.
    1. The child-caring facility shall maintain and post a current, written emergency fire evacuation plan and diagram to include:
      - a. An evacuation route and procedure; and
      - b. The location of fire extinguishers.
    2. Emergency drills shall be performed quarterly and documented for each of the following emergency events;
      - a. Fire;
      - b. Tornado or severe thunderstorm warning; and
      - c. Flash flood, if applicable.
    3. An emergency plan shall designate a suitable shelter in the event of an emergency.
  - (b) A child-caring facility with a swimming pool shall be staffed with a certified lifeguard in accordance with 902 KAR 10:120, Section 13.
  - (c) Donated home processed foods shall be prohibited.
  - (d) Transportation.
    1. If transportation is provided directly, contracted for, or arranged, a child-caring facility shall require:
      - a. Compliance with state laws pertaining to vehicles, drivers, and insurance;
      - b. A seat for each child and that the child remain seated while the vehicle is in motion;
      - c. A seat belt be used to secure the child;
      - d. A vehicle used to transport a child off campus to provide a seat for each passenger as manufactured standard equipment;
      - e. That a child never be left unattended in a vehicle; and
      - f. Compliance with KRS 605.080(3) pertaining to court-ordered transportation.
    2. The maximum number of children a driver shall supervise alone is four (4).
    3. A child under the age of eight (8) who is less than fifty-seven (57) inches tall shall not be transported unless restrained in a safety seat that meets the requirements established in KRS 189.125(3).
    4. A vehicle shall not pick up and deliver a child under the age of six (6) to a location that requires the child to cross a street or highway unless the child is accompanied by an adult.
    5. If transportation is provided by a means other than licensed public transportation:

- a. The vehicle shall be maintained in a safe mechanical and operable condition;
  - b. A thorough inspection of the vehicle shall be made and documented by a qualified mechanic at least annually; and
  - c. If the driver is not in his seat, the motor shall be turned off, keys removed, and brake set.
- (e) A child with a history of aggressive behavior or sexual acting-out shall be assessed by the treatment team to ensure the safety of the child and other children in the facility, including sleeping arrangements, with the appropriate safety measures included in the child's ITP.
- (f) If a child-caring facility accepts for placement a child who has been committed to the Department of Juvenile Justice for the commission of a sex crime, the child-caring facility shall have written policies and procedures for the segregation of the child from a child committed to the cabinet in accordance with KRS 605.090(1), 620.090(2), and 620.230(3).
  - 1. Segregation shall include sight and sound separation of a child committed to the Department of Juvenile Justice from a child committed to the cabinet for the following functions within the facility or activities supervised by the facility:
    - a. Sleeping;
    - b. Personal hygiene; and
    - c. Toiletry.
  - 2. During other functions within the facility or activities supervised by the facility, segregation shall include separation of a child committed to the Department of Juvenile Justice from a child committed to the cabinet to prohibit any physical contact and verbal communication between the children.
- (g) Physical management shall be used in an emergency or a crisis situation only:
  - 1. After attempts to de-escalate the situation have been made;
  - 2. By trained staff; and
  - 3. To prevent:
    - a. A child from injury to self or others; or
    - b. Serious property damage.
- (h) Physical management shall not be used for:
  - 1. Punishment;
  - 2. Discipline;
  - 3. The convenience of staff;
  - 4. Forced compliance;
  - 5. Retaliation; or
  - 6. A substitute for appropriate behavioral support.
- (i) Physical management shall be discontinued if a child displays adverse side effects including:
  - 1. Illness;
  - 2. Severe emotional or physical stress; or
  - 3. Physical damage.
- (3) Nutritional requirements.
  - (a) A child shall be served meals that:
    - 1. Meet the nutritional guidelines of the U.S. Department of Agriculture that include foods from the five (5) basic food groups; and
    - 2. Satisfy the quantity required to meet the needs of each child as to age, activity, and prescribed diet or ITP.
  - (b) A child shall be encouraged to eat the food served, but shall not be subjected to coercion.
  - (c) An order for a modified diet from a licensed physician shall be followed by the child-caring facility.

- (d) A menu shall be planned at least one (1) week in advance, dated, posted, and kept on file for one (1) year.
- (e) With the exception of a child receiving a meal at school, three (3) meals a day shall be provided at regular intervals and, except for weekends and holidays, no more than fourteen (14) hours shall lapse between the evening meal and morning meal.
  - 1. A nourishing snack shall be provided and:
    - a. May be part of the daily food needs;
    - b. Shall not replace a regular meal; and
    - c. Shall be recorded on the menu.
  - 2. A meal shall be scheduled at set times each day so that at least one (1) hot meal a day is not hurried, allowing time for conversation.
  - 3. Food, or withholding of food, shall not be used as a punishment.
  - 4. Only pasteurized milk and milk products, and U.S. government inspected meat shall be served to a child.
  - 5. Food shall be prepared to preserve nutritive value and heighten flavor and appearance.
  - 6. The same food shall be served to children under care and to staff members, unless a food is not suitable for a person because of:
    - a. The person's age;
    - b. A dietary restriction; or
    - c. A religious preference.
- (f) Table service shall be provided for a child capable of eating at a table.
  - 1. Tables and chairs shall be:
    - a. Of a height that corresponds to the size of the child served; and
    - b. Constructed of material that can be easily sanitized.
  - 2. A child who has not had an opportunity to learn how to handle food with the usual table service shall be managed in a way that he shall not be embarrassed or subjected to ridicule.
- (g) A written report of a food inspection by municipal, county, or federal authorities shall:
  - 1. Be kept on file at the child-caring facility; and
  - 2. Meet local, state, and federal regulations.
- (h) If a child-caring facility subcontracts a food service, applicable federal and state administrative regulations shall apply.

#### Section 6. General Requirements.

- (1) An incident of suspected child abuse or neglect, human trafficking, or female genital mutilation shall be reported as required by KRS 620.030.
- (2) 

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  - (a) The facility shall, with regard to suspected child abuse or neglect by an employee:
    - 1. Document each incident;
    - 2. Keep each incident document on file; and
    - 3. Make the files accessible to the cabinet.
  - (b) A child shall not be exploited for promotional purposes, or in a manner that shall cause the child or family to suffer discomfort or embarrassment.
  - (c) Except as indicated in paragraph (d) of this subsection, a child shall not be used personally for a fund-raising purpose for the child-caring facility.
  - (d) If a picture, slide, recording, or other private, personal effect of a child is used in fund-raising or promotional effort of a child-caring facility, written permission shall be obtained from:
    - 1. A parent or guardian; or
    - 2. An authorized:

- a. Representative of the cabinet;
  - b. Representative of the Department of Juvenile Justice; or
  - c. Legal representative.
- (3) For an activity conducted away from a child-caring facility, the facility shall:
  - (a) Safeguard the health and safety of the children during the activity;
  - (b) Have a written policy and procedures governing the activity;
  - (c) Maintain staff-to-child ratios in accordance with Section 3 of this administrative regulation; and
  - (d) Provide transportation in a manner that complies with Section 5(2)(d) of this administrative regulation.
- (4) Clothing and personal possessions.
  - (a) Through agreement with the child's legal custodian, the child-caring facility shall provide a child with clothing and footwear that is clean, well-fitting, and seasonal.
  - (b) A child shall be provided individual articles of personal hygiene.
  - (c) The child-caring facility shall allow a child to have personal belongings and property consistent with this administrative regulation and child-caring facility policy.
- (5) A child's money.
  - (a) The child-caring facility shall have written policy and procedure relating to money belonging to a child.
  - (b) A child shall have access to information regarding the balance of the child's fund.
  - (c) Within thirty (30) days of discharge, funds belonging to a child shall be transferred with or returned to the child.
- (6) Visitation and communication shall include:
  - (a) Written policy on visitation and communication;
  - (b) An arrangement for visitation that is not in conflict with the ITP;
  - (c) Documentation of each visit in the case record; and
  - (d) Access to a telephone to make and receive a telephone call consistent with the child's ITP, current court orders, and the facility's child-caring policy.
  - (e) Allowing a child to contact cabinet staff by telephone within twenty-four (24) hours of the request of the child.
- (7) Religion, culture, and ethnic origin.
  - (a) Facility policy shall demonstrate consideration for and sensitivity to:
    - 1. The racial, cultural, ethnic, and religious background of a child in care; and
    - 2. Availability of activities appropriate to the child's cultural or ethnic origin.
  - (b) With the exception of a religious practice that is destructive towards property or places a child or others in physical danger, an opportunity shall be provided for a child to:
    - 1. Practice the religious belief and faith of the child's individual or family preference; and
    - 2. Participate in a religious activity without coercion.
- (8) Education.
  - (a) If a child-caring facility operates its own school program, it shall have written policy and procedure regarding the development and implementation of the educational program. The policy and procedure shall include:
    - 1. School attendance;
    - 2. Teaching staff;
    - 3. School records;
    - 4. Educational supplies and equipment;
    - 5. Individual educational plans; and
    - 6. Use of a community school.
  - (b) A child-caring facility shall ensure that a child attends an accredited educational program the number of days required by law.

- (c) A child shall be enrolled in an accredited educational program within one (1) week of admission.
- (d) A school-age child ineligible or unable to attend an accredited school shall have an educational program specific to the individualized need of the child that may include a General Education Diploma or vocational training.
- (e) If a child-care facility operates an educational program, maintenance of school records shall comply with state law and administrative regulations of the educational body having jurisdiction.
- (f) The child-caring facility shall provide a quiet area and designated time for study.
- (9) Work and chore assignment.
  - (a) An assigned chore or work assignment shall not place the child in physical danger.
  - (b) A chore assignment shall be posted within the child's living quarters.
  - (c) A child may be given a job in compliance with child labor laws for which he or she receives payment that shall be clearly differentiated from a chore expected of him to be completed in relation to the routine of daily living.
  - (d) A work assignment outside of a daily routine chore at the child-caring facility shall not be used as a form of punishment. An additional chore assignment beyond what is regularly assigned to a child may be:
    - 1. Performed as restitution for intentional property damage made by the child; or
    - 2. Given to a child for violation of a child-caring facility rule upon mutual agreement between the child and supervisory child-caring staff without the child being coerced to enter into an agreement.
  - (e) A child shall be given a rest period of at least ten (10) minutes during each hour worked.
  - (f) Use of a child to perform a chore or work assignment shall not negate the child-caring facility's ultimate responsibility for the maintenance of the child-caring facility nor the employment of staff sufficient to maintain the child-caring facility.
- (10) Discipline.
  - (a) A child-caring facility shall have written policy and procedure governing disciplinary action.
  - (b) Discipline shall be:
    - 1. Utilized as an educational tool and be related to the child's actions initiating the disciplinary process; and
    - 2. Consistent with the child's ITP and in response to the child's lack of control or misbehavior.
  - (c) A group of children shall not be punished due to the misbehavior of one (1) or more individual group members.
  - (d) The following practices shall not be allowed:
    - 1. Cursing;
    - 2. Screaming;
    - 3. Name calling;
    - 4. Threatening of physical harm;
    - 5. Intimidation;
    - 6. Humiliation;
    - 7. Denial of food or sleep;
    - 8. Corporal physical discipline, except in accordance with KRS 199.640(6);
    - 9. Hitting;
    - 10. Unnecessarily rough handling;
    - 11. Other physical punishment; or
    - 12. Denial of visitation with family or custody holder as punishment.
  - (e) With the exception of a parent disciplining a child, a child shall not directly discipline another child.



- (f) Handcuffs, weapons, mechanical restraints, chemical restraints, or other restraint devices shall not be used.
- (g) A child placed in a time-out area shall be:
  - 1. In sight or hearing of staff; and
  - 2. Checked by staff at least every five (5) minutes until it is determined the child is ready to continue normal activity.

#### Section 7. Child-caring Program Services.

##### (1) Admissions and intake.

- (a) The child-caring facility shall have clearly defined written policy and procedure for an admission that identifies the age, sex, and detailed description of the type of child served.
- (b) Acceptance of a referral shall be based on the assessment that the child's need is one that:
  - 1. The service of the child-caring facility is designed to address; and
  - 2. Cannot be met in a less restrictive setting.
- (c) The child-caring facility shall not accept into care a child for whom a service cannot be provided based on the child-caring program's mission statement and its available resources.
- (d) The child-caring facility shall have a written placement agreement with the child's custodian.
- (e) The child-caring facility shall conduct a:
  - 1. Preadmission interview with the child; or
  - 2. Screening of the child's available information, if a preadmission interview is not possible due to an emergency placement.
- (f) The following information regarding the child shall be obtained by the child-caring facility from the child's custodian during intake, or it shall be documented that the information was requested and not available:
  - 1. Commitment order or signed voluntary admission form;
  - 2. Verification of birth;
  - 3. Immunization record; and
  - 4. Social history and needs assessment that includes medical, educational, developmental, and family history.
- (g) A written consent pertaining to the child's care shall be obtained from the child's custodian for:
  - 1. Photograph, video, and audio tape;
  - 2. Emergency and routine medical care; and
  - 3. Release of case record information.
- (h) Before admission, the child and custodian shall be informed in writing of their rights and the child-caring facility's responsibilities, including policy pertaining to services offered to the child.
- (i) A child shall be informed upon admission of the right to file a grievance.
- (j) Upon admission, the child shall be oriented to life at the child-caring facility, including rules and consequences for violation of the rules.

##### (2) Casework planning.

- (a) The child-caring facility shall have written policy and procedure for the ITP process including:
  - 1. Assessment;
  - 2. Assignment;
  - 3. Designation of a case coordinator; and
  - 4. Development, implementation, and evaluation of the ITP and family involvement.

- (b) An initial assessment shall be completed by designated staff within twenty-four (24) hours of admission to include:
  - 1. Identifying information;
  - 2. Presenting problem;
  - 3. History (developmental, social, emotional health, education); and
  - 4. Current level of functioning including strengths and weakness.
- (c) An initial ITP shall be developed by designated staff and implemented within twenty-four (24) hours of admission.
- (3) Comprehensive assessment and treatment plan.
  - (a) A comprehensive emotional and behavioral assessment of a child shall be completed by the treatment team and entered in the case record within twenty-one (21) days of admission, including the following:
    - 1. A history of previous emotional, behavioral, and substance abuse problems and treatment;
    - 2. The child's current emotional, behavioral, and developmental functioning, including strengths and weakness;
    - 3. A psychiatric or psychological evaluation if recommended by the treatment team;
    - 4. Other functional evaluation of language, self-care, social effectiveness, and visual-motor functioning, if recommended by the treatment team;
    - 5. Social assessment that includes:
      - a. Environment and home;
      - b. Religion;
      - c. Ethnic group;
      - d. Developmental history;
      - e. Family dynamics and composition; and
      - f. Education; and
    - 6. Recommendation for provision of treatment.
  - (b) A coordinated treatment team approach shall be utilized in the development, implementation, and evaluation of a comprehensive ITP.
  - (c) A comprehensive ITP shall be developed and implemented, in accordance with KRS 199.640(5)(a)4, to improve child functioning based upon the individual need of the child, and the child's family if appropriate, and shall include at least the following components:
    - 1. Goals and objectives for permanence;
    - 2. Time frame projected for completion of each goal and objective;
    - 3. Method for accomplishing each goal and objective, including utilization of community providers;
    - 4. Person responsible for completion of each goal and objective; and
    - 5. Projected discharge date and placement plan.
  - (d) The comprehensive ITP shall be developed within twenty-one (21) days of admission.
    - 1. A treatment team review of the child's and family's progress toward meeting each treatment goal shall occur at least monthly.
    - 2. Every effort shall be made to involve the child and his family in the monthly treatment team review.
    - 3. Treatment team evaluation of the comprehensive ITP shall occur at least quarterly.
    - 4. An additional assessment shall be completed upon the recommendation of the treatment team.
    - 5. Evaluation and assessment information shall be documented and maintained in the child's record.
  - (e) The child shall be offered the opportunity to sign an ITP and ITP review, signifying understanding of the ITP.

1. If the child refuses to sign or is developmentally unable to understand the circumstance, this shall be documented in the record.
2. The child and his family or custodian shall receive a copy of the ITP.
- (4) Treatment environment. The daily child-caring program shall be planned in the following manner in order to create an atmosphere conducive to treatment:
  - (a) The child-caring facility shall have written policy and procedure describing its daily routine, rules, activity, and child and staff interaction.
  - (b) The daily child-caring program shall be:
    1. Planned to provide a framework for daily living; and
    2. Reviewed and revised as the needs of the individual child or living group change.
  - (c) The daily routine shall be written and available to each child.
  - (d) Each rule shall be clearly stated in language that a child can understand.
  - (e) Staff shall interact with a child in a warm, supportive, constructive, and confidential manner and shall treat the child with respect.
  - (f) Counseling and interviewing a child and the child's family shall be conducted in a private area.
  - (g) A daily recreational activity shall be available to promote mastery of:
    1. Developmental tasks;
    2. Development of relationships; and
    3. Increase in self-esteem, in accordance with the child's ITP.
  - (h) The child-caring facility shall provide recreational equipment, maintained in usable and safe condition, to implement the recreational program.
- (5) The child-caring facility shall make available a quality program for substance abuse prevention and treatment in compliance with KRS 199.640(5)(a)7.
- (6) Discharge and aftercare.
  - (a) The child-caring facility shall have written policy and procedure that describe the condition under which a child may be discharged, including criteria for an unplanned or emergency discharge and a discharge inconsistent with the ITP.
  - (b) The approval of the program director shall be required for an unplanned or emergency discharge.
  - (c) Discharge planning shall begin with the development of the ITP and shall continue throughout subsequent ITP reviews. The treatment team shall consider the following matters related to discharge planning:
    1. Identification of placement;
    2. Community resources to provide support for youth; and
    3. Family services.
  - (d) When a child is leaving a facility as a planned discharge, a predischarge conference shall be held to ensure that the child and family are prepared for successful transition into placement. The parent, guardian or custodian, the child, and the treatment team shall attend this conference.
  - (e) The child shall have at least one (1) preplacement visit prior to the planned discharge, or the facility shall document unsuccessful efforts to arrange a visit.
  - (f) The child-caring facility shall prepare a written discharge summary within fourteen (14) days following the date of discharge. A copy shall be provided to the custody holder. The summary shall include:
    1. Information related to progress toward completion of each ITP goal;
    2. Each barrier to treatment;
    3. Each treatment method used in working with the child;
    4. Date of discharge;
    5. Reason for discharge; and
    6. Name, telephone number, and address of person or child-caring facility to whom the child was discharged.

(g) An aftercare service shall be provided to a child where no other agency has responsibility for the child's transition or adjustment to a new environment. Upon discharge, the following needs of the child shall be assessed and a referral made for needed aftercare service:

1. Educational;
2. Medical;
3. Vocational;
4. Psychological;
5. Legal; and
6. Social.

(7) Case record. The child-caring facility shall:

(a) Maintain, in a confidential and secure manner, a current case record on each child, including:

1. Identifying information on the child to include:
  - a. Name, ethnic origin and gender;
  - b. Date of birth and Social Security number;
  - c. Former residence;
  - d. Name, address, and occupation of each parent, if available;
  - e. Date of admission; and
  - f. Type of commitment;
2. Commitment order or custodian's consent form for admission;
3. Birth and immunization certificates;
4. Education;
5. Medical and dental records that may be maintained separately from the case record;
6. Assessment data or social history;
7. ITP and each review;
8. Each incident report, with a paper or electronic copy maintained in a centralized location within the licensed facility;
9. Chronological recording;
10. Correspondence with court, family, and custody holder;
11. Discharge summary; and
12. Written consent;

(b) Document, at least weekly, progress made by the child and his family toward meeting the treatment goal;

(c) Record the aftercare service it provides until the service is terminated;

(d) Have a written policy regarding maintenance, security, and disposal of a case record maintained by, or in possession of, the child-caring facility;

(e) Not disclose information concerning a child or his family to a person not directly involved in the case, without the written consent of the custodian of the child;

(f) Forward, within twenty-four (24) hours, a request made by an individual or an agency to review the case record of a committed child, to the:

1. Commissioner, Department for Community Based Services, if the child is committed to the cabinet; or
2. Other legal custodian, if the child is not committed to the cabinet;

(g) With the exception of a sealed adoptive record, release identifying or personal information including a Social Security card, birth certificate, or driver's license to the child at discharge;

(h) After the discharge of a child:

1. Maintain the case record at the child-caring facility for at least three (3) years; and
2. After three (3) years, the child-caring facility may archive the case record; or
3. Maintain the case record permanently at the child-caring facility;

- (i) If the child-caring facility ceases to operate, transfer the case record to the cabinet;
- (8) The cabinet shall maintain a file on each record transferred to one (1) of its record centers. The file shall include the following information:
  - (a) The child's name, case number, date of birth; and
  - (b) Date the case record was sent to the cabinet.
- (9) All records maintained by the child-caring facility shall be made available to the cabinet or designee upon request.

Section 8. Residential Treatment Program. The requirements of this section shall apply to a residential child-caring facility that provides intensive treatment services.

- (1) Professional treatment services.
  - (a) The facility shall secure needed services for a child who has an assessed need for a psychological, psychiatric, or other professional treatment service not provided by the residential child-caring facility.
  - (b) The admission decision shall be the responsibility of a treatment team comprised of clinical, social service, and other disciplines designated by the residential child-caring facility's treatment director.
  - (c) <sup>1</sup>
    - 1. After assessment and development of the ITP in accordance with Section 7 of this administrative regulation, the treatment team shall identify services to meet the needs of the child and family.
    - 2. The services shall:
      - a. Be provided by the residential child-caring facility or arranged through contract with another qualified residential child-caring facility or child-placing agency, as established in 922 KAR 1:310, or a treatment professional; and
      - b. Include, as developmentally appropriate, a minimum of weekly:
        - (i) Individual therapy from a qualified mental health professional or other treatment professional; and
        - (ii) Group therapy conducted by a qualified mental health professional or other treatment professional, as determined appropriate by the treatment team and under the supervision of the treatment director.
    - (d) Other services identified after the assessment and development of the ITP by the treatment team may include:
      - 1. Psychiatric counseling;
      - 2. Specialized therapy recognized by a mental health credentialing authority; or
      - 3. Family counseling.
  - (2) Staffing requirement.
    - (a) Staff-to-child ratios shall be in accordance with Section 3(5) of this administrative regulation.
    - (b) The treatment director shall:
      - 1. Hold at least a master's degree in a human service discipline; and
      - 2. Have at least five (5) years' experience in mental health treatment of children with emotional or behavioral disabilities and their families and be responsible for the:
        - a. Supervision;
        - b. Evaluation; and
        - c. Monitoring of the:
          - (i) Treatment program;
          - (ii) Social work; and
          - (iii) Other treatment staff.
    - (c) A residential child-caring facility providing a treatment service for more than thirty (30) children shall employ a separate treatment director other than the executive director.

(d) Â

1. A residential child-caring facility providing a treatment service for thirty (30) or fewer children may utilize the executive director in a dual role as treatment director if at least fifty (50) percent of his or her duties are spent supervising the treatment program.
2. If an employee serves as both executive director and treatment director, the higher staff qualification requirements shall apply.

(3) Seclusion.

(a) If seclusion is used, a residential child-caring facility shall:

1. Before a child is placed in seclusion, develop and maintain clearly-written policy and procedures governing the placement of a child in seclusion, including a requirement for a de-escalation plan in the child's ITP that is consistent with accreditation standards;
2. Provide a copy of the policy and procedures to staff members responsible for the placement of a child in seclusion;
3. Require a staff member who uses seclusion to complete at least sixteen (16) hours of training in approved methods of de-escalation, physical management, and the use of seclusion from a nationally-recognized organization approved by the cabinet. This training shall count toward the forty (40) hours of annual training required by Section 3 of this administrative regulation and shall include the following topics:
  - a. Assessing physical and mental status, including signs of physical distress;
  - b. Assessing nutritional and hydration needs;
  - c. Assessing readiness to discontinue use of the intervention; and
  - d. Recognizing when medical or other emergency personnel are needed.
4. Use seclusion only in an emergency or crisis situation when:
  - a. A child is in danger of harming himself or another; and
  - b. The effort made to de-escalate the child's behavior prior to placement was ineffective;
5. Prohibit the use of seclusion for:
  - a. Punishment;
  - b. Discipline;
  - c. Convenience of staff;
  - d. Forced compliance;
  - e. Retaliation; or
  - f. A substitute for appropriate behavioral support.
6. Provide that approval from the treatment director or treatment staff designee is obtained prior to or within fifteen (15) minutes of the placement of a child in seclusion.
7. Place no more than one (1) child into the same seclusion room at a time;
8. Remove an object that may be used for self-harm from a child before the child is placed in seclusion;
9. Not remove a child's clothing, except for belt and shoes, while the child is placed in seclusion;
10. Within a twenty-four (24) hour period of time, not to allow a child to remain in latched seclusion for more than:
  - a. Fifteen (15) minutes if the child is age nine (9) and younger; and
  - b. One (1) hour, if the child is age (10) and older;
11. If a child's behavior is stabilized, release the child from seclusion prior to the time period specified in this section;
12. Discontinue seclusion if a child displays adverse side effects including:
  - a. Illness;
  - b. Severe emotional or physical stress; or

- c. Physical damage to self or items in seclusion;
- 13. Provide a child in seclusion with food, water, and access to a lavatory; and
- 14. Use a room for seclusion that is:
  - a. Lighted, ventilated, and maintained at a temperature consistent with the rest of the child-caring facility;
  - b. Internally observable if the door is closed;
  - c. At least fifty-six (56) square feet in size; and
  - d. Free from an object that allows the child to do self-harm.
- (b) If a child requires repeated placement in seclusion, the treatment director shall conduct a treatment team meeting to reassess the child's ITP, including referring the child to a higher level of care.
- (c) A staff member shall observe visually every five minutes a child who is in seclusion.
- (d) Staff shall have visual contact with a child in latched seclusion at all times.
- (e) Staff shall document, in the child's record, the following information regarding seclusion of a child:
  - 1. An intervention to de-escalate the child's behavior prior to placement;
  - 2. Date and time of placement;
  - 3. Date and time of removal;
  - 4. Reason for placement;
  - 5. Name of each staff member involved;
  - 6. Treatment director's or designee's approval;
  - 7. Five (5) minute visual observation by staff of the child's placement; and
  - 8. Intervention provided by treatment staff when the child leaves seclusion.
- (f) Immediately upon the child's exit from seclusion, treatment staff shall provide therapeutic intervention.
- (4) Incident report.
  - (a) Exclusive of weekends and holidays, within twenty-four (24) hours of the physical management of a child, including a child's placement in seclusion, designated treatment staff shall complete an incident report that shall:
    - 1. Undergo an administrative review no later than seventy-two (72) hours after the use of physical management;
    - 2. Document an assessment by the treatment director or designee that shall include consideration of the:
      - a. Necessity of the physical management or seclusion;
      - b. Congruence of the physical management or seclusion with the residential child-caring facility's policy and procedures; and
      - c. Need for a corrective action;
    - 3. Contain documentation of written feedback provided by the treatment director or designee to all treatment staff involved in the incident; and
    - 4. Be signed by the treatment director or designee and the program director or designee.
  - (b) The residential child-caring facility shall establish a system to track the frequency, location, and type of critical incidents involving physical management of a child that occurs, including seclusion.

#### Section 9. Crisis Intervention Unit.

- (1) An emergency service provided in a crisis intervention unit shall include the following:
  - (a) A mental status evaluation and physical health questionnaire of the child upon admission;
  - (b) A treatment planning process;

- (c) Procedure for crisis intervention; and
- (d) Discharge and aftercare planning processes.
- (2) A program shall have a written policy concerning the operation of a crisis intervention unit.
  - (a) Staffing.
    - 1. At least one (1) direct-care staff member shall be assigned direct-care responsibility for:
      - a. Four (4) children during normal waking hours; and
      - b. Six (6) children during normal sleeping hours.
    - 2. Administrative oversight of the program shall be provided by a staff member who shall be a:
      - a. Treatment director; or
      - b. Person qualified to be executive director.
  - (b) A licensed psychiatrist shall be available to evaluate, provide treatment, and participate in the treatment planning.
  - (c) Intake and service.
    - 1. A
      - a. Upon admission, the crisis intervention program shall provide the child and parent, guardian, or other legal representative with a clearly written and legible statement of rights and responsibilities; or
      - b. If unable to read the statement of rights and responsibilities, the statement shall be read to the child and parent, guardian, or other legal representative.
    - 2. Written policy and procedure developed in consultation with professional and direct-care staff shall provide:
      - a. For behavior management of a child, including the use of time-out; and
      - b. An explanation of behavior management techniques to a child and parent, guardian, or other legal representative.
- (3) The crisis intervention unit shall prohibit the use of:
  - (a) Seclusion; or
  - (b) Mechanical restraints.

Section 10. Group Home. The following additional requirements shall apply to a group home program:

- (1) Documentation of evidence of publication of a "notice of intent" in an area newspaper, in accordance with KRS Chapter 424, advertising that:
  - (a) A public hearing shall be held if requested by citizens in the community or an appropriate local governmental entity; and
  - (b) Information obtained at the hearing shall be made available to the public and the cabinet;
- (2) A staff-to-child ratio in accordance with Section 3(5) of this administrative regulation; and
- (3) Documentation of the use of community resources and efforts to encourage a child to participate in community activities.

Section 11. Independent Living Services. A child-caring facility shall:

- (1) Provide independent living services:
  - (a) To a child:
    - 1. In the custody of a state agency; and
    - 2. Fourteen (14) ~~Twelve (12)~~ to twenty-one (21) years of age;
  - (b) As prescribed in the child's ITP; and
  - (c) In accordance with 42 U.S.C. 677(a); and
- (2) Teach independent living:
  - (a) To a child:



1. In the custody of a state agency; and
  2. **Fourteen (14) to twenty-one (21)** ~~Eighteen (18)~~ ~~Sixteen (16)~~ years of age ~~and older~~; and
- (b) Developed in accordance with 922 KAR 1:340, Section 3(1)(e).

*MARTA MIRANDA-STRAUB, Commissioner*

*ERIC C. FRIEDLANDER, Secretary*

APPROVED BY AGENCY: October 6, 2022

FILED WITH LRC: October 11, 2022 at 3 p.m.

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## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Contact Person:** Laura Begin or Krista Quarles

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**

This administrative regulation establishes the standards for private child-caring facilities.

**(b) The necessity of this administrative regulation:**

This administrative regulation is necessary to ensure standards for all private child caring facilities.

**(c) How this administrative regulation conforms to the content of the authorizing statutes:**

KRS 199.640(5) and 199.645 require the cabinet to promulgate administrative regulations relating to standards of care and service for child-caring facilities.

**(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:**

This administrative regulation assists in the effective administration of the statutes by establishing the standards for private child-caring facilities.

**(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:**

**(a) How the amendment will change this existing administrative regulation:**

This amendment adds documentation and training requirements for child-caring facilities that accept the placement of a child with medical complexity who is in the custody of the cabinet. These requirements ensure that communication is taking place between the cabinet and the facility around providing for the child's medical needs. The amendment also includes references to the proposed administrative regulation, 922 KAR 1:290, pertaining to agency staff background check requirements pursuant to KRS 199.642 and makes conforming updates pertaining to 922 KAR 1:340 and the age of youth participating in independent living services. The administrative regulation is being further amended in response to written comments received to make corrections in definitions, correct terminology related to background checks, correct the age of youth being taught independent living services, and establish a process through which staff under investigation may be allowed to return to work consistent with 922 KAR 1:310.

**(b) The necessity of the amendment to this administrative regulation:**

The amendment is necessary to ensure that the medical needs of medically complex children who are in the custody of the cabinet are met. Conforming amendments are also necessary for consistency with other recent regulatory amendments.

**(c) How the amendment conforms to the content of the authorizing statutes:**

The amendment updates standards of care and service provided by child-caring facilities, as required by the authorizing statutes.

**(d) How the amendment will assist in the effective administration of the statutes:**

The amendment ensures the care of medically complex children who are in the custody of the cabinet.

**(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:**

There are approximately 30 private child-caring facilities licensed in Kentucky and eleven children or youth that are medically complex and placed in a residential setting.

**(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:**

**(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:**

Private child-caring facilities subject to this administrative regulation will have increased regulatory requirements ensuring that necessary documentation and training occur prior to the placement of a child with complex medical needs in order to ensure proper care of the child.

**(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):**

This amendment only increases documentation and training that is provided by the cabinet for free; therefore, the cost is minimal, if any.

**(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):**

Ensuring the needs of children with medical complexity are met.

**(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:**

**(a) Initially:**

The amendment to this administrative regulation has no cost associated, but the administrative regulation is implemented with a mixture of federal and state funds based upon the eligibility of the child placed in the child-caring facility.

**(b) On a continuing basis:**

The administrative regulation is implemented with a mixture of federal and state funds based upon the eligibility of the child placed in the residential child-caring facility

**(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:**

This amendment has no cost to the agency, but the administrative regulation will be implemented with a mixture of federal and state funds based upon the eligibility of the child placed in the child-caring facility.

**(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:**

The administrative regulation requires no increase in fees or funding.

**(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:**

This amended administrative regulation does not establish or increase any fees.

**(9) TIERING: Is tiering applied?**

Tiering does not apply to this administrative regulation, as the requirements for these facilities are the same.

## **FEDERAL MANDATE ANALYSIS COMPARISON**

**(1) Federal statute or regulation constituting the federal mandate.**

20 U.S.C. 7183, 42 U.S.C. 677(a)(1)-(6)

**(2) State compliance standards.**

KRS 194A.050(1), 199.640(5), 199.645, 605.150, 615.050

**(3) Minimum or uniform standards contained in the federal mandate.**

20 U.S.C. 7183, 42 U.S.C. 677(a)(1)-(6)

**(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?**

This administrative regulation requires increased documentation and training prior to the placement of children with medical complexity.

**(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.**

This documentation and training will ensure that providers are prepared to care for children with medical complexity who are placed in their care.

## **FISCAL NOTE**

**(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?**

The Cabinet for Health and Family Services, Department for Community Based Services and Office of Inspector General, will be impacted as the regulatory and monitoring agencies overseeing these facilities and the services they provide.

**(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.**

KRS 194A.050(1), 199.640(5), 199.645, 605.150, 615.050.

**(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.**

**(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?**

This administrative regulation will not generate any revenue.

**(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?**

This administrative regulation will not generate any revenue.

**(c) How much will it cost to administer this program for the first year?**

The administrative body currently administers this program. There will be no new costs to administer this program.

**(d) How much will it cost to administer this program for subsequent years?**

The administrative body currently administers this program. There will be no new costs to administer this program.

**Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

**Revenues (+/-):**

**Expenditures (+/-):**

**Other Explanation:**

**(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.**

**(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?**

This amendment seeks to ensure the needs of children with medical complexity are met through increased communication, documentation, and training. The amendment and administrative regulation are not expected to generate cost savings.

**(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?**

Cost savings are not anticipated.

**(c) How much will it cost the regulated entities for the first year?**

This amendment requires increased communication, documentation, and training related to the placement of children with complex medical needs. The cabinet provides this one-day training at no costs to providers and is only necessary if a regulated facility agrees to accept the placement of a child with medical complexity.

**(d) How much will it cost the regulated entities for subsequent years?**

This amendment requires increased communication, documentation, and training related to the placement of children with complex medical needs. The training is provided by the cabinet and the placement of a child with these needs are subject to a regulated entity's availability and agreement.

**Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

**Cost Savings (+/-):**

**Expenditures (+/-):**

**Other Explanation:**

**(5) Explain whether this administrative regulation will have a major economic impact, as defined below.**

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] No, this administrative regulation is not anticipated to have an economic impact to regulated entities.