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# Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

<b>Agency/Board/Commission:</b>	Department of Children's Services
<b>Division:</b>	Office of Child Welfare Licensing
<b>Contact Person:</b>	Jim Layman
<b>Address:</b>	315 Deaderick St., 10 <sup>th</sup> Floor, Nashville, TN 37243
<b>Phone:</b>	615-532-4801
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

<b>ADA Contact:</b>	Donovan Haynes
<b>Address:</b>	315 Deaderick St., 7 <sup>th</sup> Floor, Nashville, TN 37243
<b>Phone:</b>	615-741-8422
<b>Email:</b>	Donovan.haynes@tn.gov

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	William R. Snodgrass Tennessee Tower
Address 2:	312 Rosa L. Parks Ave, 3 <sup>rd</sup> Floor, Conference Room D
City:	Nashville, Tennessee
Zip:	37243
Hearing Date:	07/06/2023
Hearing Time:	9:30am central <input checked="" type="checkbox"/> X CST/CDT <input type="checkbox"/> EST/EDT

**Additional Hearing Information:**

Please allow enough time to go through security upon entering the building. A state-issued ID is required. All written comments from the public re: this proposed rulemaking activity may be sent to [james.r.layman@tn.gov](mailto:james.r.layman@tn.gov) and are due by close of business (4:30 PM CDT) on Friday, 07/07/2023.

**Revision Type (check all that apply):**

☒ Amendment  
☒ New  
☐ Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

<b>Chapter Number</b>	<b>Chapter Title</b>
0250-04-01	Administration and Procedure
<b>Rule Number</b>	<b>Rule Title</b>
0250-04-01-.01	Statement of Authority

0250-04-01-.02	Part Definitions
0250-04-01-.03	Licensing Administration and Procedure
0250-04-01-.04	Adverse Licensing Action and Appeals
0250-04-01-.05	General Requirements for Regulated Institutions
0250-04-01-.06	Child Safety and Wellbeing
0250-04-01-.07	Personnel
0250-04-01-.08	Residential and Foster Care Services
0250-04-01-.09	Seclusion, Restraint, and Discipline
0250-04-01-.10	Physical Plant
0250-04-01-.11	Records Management
0250-04-01-.12	Independent Living Services
0250-04-01-.13	Provisions for Maternity Care
0250-04-01-.14	Requirements and Exceptions for Emergency Shelters

<b>Chapter Number</b>	<b>Chapter Title</b>
0250-04-05	Standards for Residential Child Caring Agencies
<b>Rule Number</b>	<b>Rule Title</b>
0250-04-05-.01	Legal Basis for Licensing
0250-04-05-.02	Placement in Temporary Homes or For Adoption
0250-04-05-.03	Organization and Administration
0250-04-05-.04	Personnel
0250-04-05-.05	Staff
0250-04-05-.06	Service Provision
0250-04-05-.07	Care of the Children
0250-04-05-.08	Parental Involvement in Care
0250-04-05-.09	Physical Facilities
0250-04-05-.10	Records and Reports
0250-04-05-.11	Requirements for Wilderness Camps
0250-04-05-.12	Requirements for Emergency Shelter Care
0250-04-05-.13	Appendices

<b>Chapter Number</b>	<b>Chapter Title</b>
0250-04-06	Standards for Nontraditional Child Care Agencies
<b>Rule Number</b>	<b>Rule Title</b>
0250-04-06-.01	Definitions
0250-04-06-.02	General Requirements
0250-04-06-.03	Personnel
0250-04-06-.04	Procedures for Nontraditional Child Care Agencies
0250-04-06-.05	Minimum Identification Requirements Form

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

## NEW RULE CHAPTER AND NUMBER

Chapter 0250-04-01, Administration and Procedure, is added as a new Rule Chapter within the Rules of the Tennessee Department of Children's Services such that the new Rule Chapter shall read:

### RULES OF THE TENNESSEE DEPARTMENT OF CHILDREN'S SERVICES

#### CHAPTER 0250-04-01 Administration and Procedure

0250-04-01-.01 Statement of Authority	0250-04-01-.08 Residential and Foster Care Services
0250-04-01-.02 Part Definitions	0250-04-01-.09 Seclusion, Restraint, and Discipline
0250-04-01-.03 Licensing Administration and Procedure	0250-04-01-.10 Physical Plan
0250-04-01-.04 Adverse Licensing Action and Appeals	0250-04-01-.11 Records Management
0250-04-01-.05 General Requirements for Regulated Institutions	0250-04-01-.12 Independent Living Services
0250-04-01-.06 Child Safety and Wellbeing	0250-04-01-.13 Provisions for Maternity Care
0250-04-01-.07 Personnel	0250-04-01-.14 Requirements and Exceptions for Emergency Shelters

#### Rule 0250-04-01-.01 Statement of Authority

- (1) The legal basis for licensing is contained at T.C.A. §§ 37-5-501, et. seq. (2022 and as amended).
- (2) Any person or entity operating a child abuse agency, child caring institution, child placing agency, detention center, family boarding home or foster home, runaway house, group care home, maternity home, temporary holding resource, or nontraditional child care agency as defined in T.C.A. §37-5-501 (2022 and as amended) must be licensed or approved by the Tennessee Department of Children's Services.
- (3) The Department has the authority to issue regulations pursuant to the provisions of the Uniform Administrative Procedures Act for the licensing of any persons or entities subject to any provisions of T.C.A. §§ 37-5-501, et. seq. (2022 and as amended) and to enforce appropriate standards for the health, safety, and welfare of children and youth under the care or supervision of those entities.

Authority: T.C.A. §§ 4-5-201, et. seq.; 37-5-105; 37-5-106; and 37-5-501, et. seq.

#### Rule 0250-04-01-.02 Part Definitions

- (1) "Caregiver," "Caregivers," "Care Provider," or "Care Providers" mean the person(s), entity, or entities responsible for providing for the supervision, protection, and basic needs of the child.
- (2) "Child" means a person under eighteen (18) years of age.
- (3) "Child Abuse Prevention Agency" means an agency providing any services to prevent or treat child abuse or neglect, or to protect children from child abuse or neglect.
- (4) "Child Care" means the provision of supervision, protection, and the basic needs of a child for twenty-four (24) hours a day, including the provision of such temporary services to a child awaiting placement in permanency care.
- (5) "Child Care Agency" means a child abuse agency, a child caring institution, a child placing agency, a detention center, a family boarding home or foster home, a group care home, a maternity home, or a temporary holding resource.
- (6) "Child Placing Agency" means any agency placing children in foster homes for temporary care, or for adoption. A license issued to a child-placing agency shall also include all Family Boarding Homes and Group Care Homes operated by the agency.

- (7) "Commissioner" means the Commissioner of the Tennessee Department of Children's Services.
- (8) "Corporal Punishment" means any punishment in which physical force is used and intended to cause some degree of pain or discomfort.
- (9) "Department" or "DCS" means the Tennessee Department of Children's Services.
- (10) "Detention Center" means any facility operated by any entity for the confinement of youth in a hardware secure setting who meet the criteria of T.C.A. § 37-1-114(c) or other applicable laws and who are in need of legal temporary placement; are awaiting adjudication of a pending petition; or are awaiting disposition or placement.
- (11) "Emergency Shelter Care" means any residential care, available on a twenty-four (24) hour basis, provided to children in crisis-related circumstances. The length of care shall not extend beyond thirty (30) days.
- (12) "Family Boarding Home" means any agency operating a home receiving two (2) or more children for full-time care outside their own homes.
- (13) "Group Care Home" means any agency operating a home receiving seven (7) or more children for full-time care outside their own homes.
- (14) "High School Diploma or Equivalent" means a document recognizing graduation from a legally approved public or private institution, based upon the issuing state's required number of academic credits. This may include a GED diploma or HiSET equivalent. A special education diploma, statement of attendance, honorary diploma, or correspondence or video course is not considered an equivalent alternative.
- (15) "Human Services Related Field" means attainment of a baccalaureate or advanced degree in the fields of early childhood development, counseling and mental health services, family and community services, sociology, criminal justice, public health administration, or any other similar field as determined by the licensing office.
- (16) "Independent Living Program" means a residential program designed to help residents obtain skills which will allow them to become self-sufficient adults and which provides limited supervision by adults and encourages independent decision making.
- (17) "License" means a yearly permit issued to an agency or facility giving care to children, based upon achievement in meeting minimum required standards developed and published by the Department.
- (18) "Licensing Office" means the Department of Children's Services Office of Child Welfare Licensing or any successor office.
- (19) "Maternity Home" means any agency providing residential care to mothers and their children either before, during, or within two (2) weeks after childbirth.
- (20) "Nontraditional Child Care Agency" means any child care agency providing residential child care for one (1) or more children who must be transported across state lines to enter or leave the agency's care and whose transport is not subject to the Interstate Compact for the Placement of Children (ICPC) or the Interstate Compact for Juveniles (ICJ), but does not include a person or entity that places children in family boarding homes or foster homes.
- (21) "Related" means, for the purposes of child care, the children, step-children, grandchildren, step-grandchildren, siblings of the whole or half-blood, step-siblings, nieces, nephews, or foster children of the primary caregiver. For purposes of residential children care, "Related" means children, step-children, grandchildren, step-grandchildren, siblings of the whole or half blood, step-siblings, nieces, or nephews of the primary care provider.
- (22) "Residential Child Care Agency" means any child care agency providing full time residential care for thirteen (13) or more children for full-time care outside their own homes. This includes the full-time

residential care of a total of thirteen (13) or more children in one (1) or more buildings on contiguous property with one (1) administrator.

- (23) "Restrictive Behavior Management" or "RBM" means any physical or mechanical restraint, use of chemical defense agents, or any form of seclusion as defined by T.C.A. § 37-5-214.
- (24) "Runaway House" means any house or institution giving sanctuary or housing to any child who is away from the home or the residence of his/her parent or legal guardian without their consent.
- (25) "Sentinel Event" means any unanticipated event resulting in hospitalization, death, or serious physical or psychological injury to a youth in the care of the agency or facility.
- (26) "Staff" means all full-time and part-time employees of a licensed agency or facility.
- (27) "Tuberculin (TB) Screening" means a verbal assessment by a qualified physician or nurse practitioner to identify or rule out risk factors that may warrant further testing or identify health hazards within the home.
- (28) "Temporary Holding Resource" means a short-term placement alternative for children pending adjudication; dispositional placement; or pending return to a dispositional placement. For the purposes of this definition, short-term shall mean no more than seventy-two (72) hours, exclusive of non-judicial days. Up to one half of the temporary holding resource's individual rooms may be hardware secure.
- (29) "Volunteer" means any person providing assistance to the agency without pay, who may have direct and ongoing contact with youth equal to or greater than twenty (20) hours per month.
- (30) "Youth" means a person under eighteen (18) years of age, or a person under nineteen (19) years of age in the custody of the Department of Children's Services or remaining under the jurisdiction of the juvenile court.

Authority: T.C.A. §§ 4-5-201, et. seq.; 37-5-105; 37-5-106; and 37-5-501, et. seq.

#### Rule 0250-04-01-.03 Licensing Administration and Procedure

- (1) Basis for Approval for License
  - (a) All child care agencies and nontraditional child care agencies, as defined in 0250-04-01-.02 and T.C.A. § 37-5-501, shall be licensed annually by the Department, with said license to be based upon standards developed and published for each child welfare agency in accordance with the following criteria:
    - 1. The present need for the agency;
    - 2. The adequacy of the methods of administration of the agency, the agency's personnel policies, and the financing of the agency;
    - 3. The capability, training, and character of the persons providing or supervising care to the children;
    - 4. The quality of the methods of care and instruction provided for the children;
    - 5. The safety, welfare, and best interests of the children in the care of the agency; and
    - 6. The suitability of the facilities provided for the care of the children.
- (2) The Department shall provide reasonable assistance to applicants or licensees in meeting the child care standards of the Department, unless the circumstances demonstrate that further assistance is not compatible with the continued health, safety, or welfare of the children/youth in the agency's care, and that adverse regulatory action affecting the agency's license is warranted. All costs and expenses arising from or related to meeting the child care standards of the Department shall be borne entirely by the applicant or licensee.

- (3) The Department shall assist in arranging appropriate care for children/youth in a licensed child care agency if the agency is denied a renewal of a license; if the license is revoked; or if the licensee can no longer meet the standards for their license.
- (4) Licensing Application and Issuance or Denial of Temporary Conditional Licenses
- (a) Application for a license to operate a child care agency shall be made in writing to the Department in such a manner as the Department determines and shall be accompanied by the appropriate fee set forth in these Rules. The annual application for a license shall be submitted to the Department prior to or by the date of expiration of the existing license and shall be signed by the Chairman of the Board and/or the child care agency's administrator.
  - (b) The Department shall issue a temporary, conditional license to a new applicant if the Department determines the applicant has presented satisfactory evidence that the proposed facility for the care of children has received fire safety and environmental safety approval; that the applicant and the personnel who will care for the children/youth are capable in all substantial respects to care for the children/youth; and that the applicant has the ability and intent to comply with the licensing laws and regulations. No temporary, conditional license shall be issued for child care agencies until these requirements are met.
  - (c) The Department may issue a restricted license that limits the agency's authority in one (1) or more areas of operation if the Department determines that the conditions of the applicant's facility, its methods of care, or other circumstances warrant.
  - (d) The purpose of the temporary, conditional license is to permit the license applicant to demonstrate to the Department that the applicant has complied with all licensing laws and regulations applicable to its operations prior to the issuance of an initial annual license.
  - (e) Within ninety (90) days of the issuance of the temporary conditional license, the Department shall determine if the applicant has complied with all regulations governing the classification of child care agency for which the application was made.
  - (f) If the Department determines the applicant has complied with all licensing regulations for the classification of child care agency for which application was made, the Department shall issue an annual license.
  - (g) If the Department determines that the applicant has not admitted children/youth; has not adequately responded to community need; or has otherwise not demonstrated compliance with all licensing requirements for the classification of child care agency for which application was made, the Department may grant an extension of the temporary, conditional license for up to an additional ninety (90) days.
  - (h) If, at the end of the ninety (90) day period following the issuance of the conditional license or the extended conditional license, the Department determines that the applicant still has not demonstrated compliance with all licensing regulations for the classification of child care agency for which application was made, the temporary, conditional license shall be terminated upon its expiration date. The applicant may reapply for licensing after a period of one (1) year from the date of termination of the conditional license, or if the termination is appealed, one (1) year from the effective date of the board of appeals or reviewing court's order.
  - (i) If an annual license is denied following the issuance of a conditional license, and if a timely appeal is made of the denial of the annual license, the conditional license shall remain in effect, unless suspended, until the appropriate reviewing body renders a decision regarding the denial of the annual license.
  - (j) If the denial of an annual license becomes effective, either through failure to appeal the denial or by the denial being upheld by the appropriate reviewing body, the applicant may reapply for licensing after a period of one (1) year from the date of the denial of the license, or if the denial is appealed, one (1) year from the effective date of the board of appeals or reviewing court's order.

- (k) If any conditional or annual license is denied, or an annual license is restricted, the applicant may appeal the denial or restriction as provided in Rule 0250-04-01-.04 and applicable state law.
- (l) In granting any license, the Department may limit the total number of children/youth who may be enrolled in the agency regardless of the agency's physical capacity to care for a greater number of children/youth.
- (m) The licensee shall post the license in a clearly visible location, as determined by the Department, so that persons visiting the agency can readily view the license, or virtually on the agency website, as provided in 0250-04-01-.05(15)(b).
- (n) Except as provided herein, no license for a child care agency shall be transferable, and the transfer by sale or lease, or in any other manner, of the operation of the agency to any other person or entity shall void the existing licensing immediately, and the agency shall be required to close immediately. If the transferee has made application for, and is granted, a conditional license, the agency may continue operation under the direction of the new licensee. The new licensee in such circumstances may not be the transferor or any person or entity acting on behalf of the transferor.
- (o) If the Department determines that any person or entity has transferred nominal control of an agency to any persons or entities who are determined by the Department to be acting on behalf of the purported transferor in order to circumvent a history of violations of the licensing law or regulations or to otherwise attempt to circumvent the licensing law or regulations or any prior licensing actions instituted by the Department, the Department may deny the issuance of any license to the applicant. The denial of the license may be appealed as provided in Rule 0250-04-01-.04 and applicable state law.
- (p) Any agency applying for licensure whose owner, operator, senior administrative staff, or as a legal entity unto itself, has been the subject of legal investigation or action, civil litigation, adverse licensing action, or other, similar circumstances in Tennessee or other states, may be denied licensure within the State of Tennessee at the discretion of the Department.
- (q) Nothing in this Rule shall be construed to prevent the Department from taking any regulatory or judicial action as may be required pursuant to applicable state law and regulations that may be necessary to protect the children/youth in the care of an agency.
- (r) The following fees shall apply to applications for licenses for child care agencies:
 

1. Family boarding home or foster care home	\$25.00
2. Group care home	\$25.00
3. Any child caring institution/child placing agency	\$25.00
4. Maternity home	\$25.00
5. Child abuse agency	\$25.00
6. Detention center	\$25.00
7. Temporary holding resource	\$25.00
8. Runaway House	\$25.00
9. Nontraditional child care agency	\$25.00
- (s) A license issued to a child placing agency shall include all boarding homes, group care homes, or foster homes approved, supervised, and/or used by the licensed child placing agency as part of its work. When group care homes or family boarding homes are licensed as part of a child placing agency, the group care home and/or family boarding home rules shall apply to the operations of these programs.

- (5) The following entities, facilities, or programs are excluded from licensing or approval as child care agencies pursuant to T.C.A. § 37-5-5-3 (2022 and as amended):
- (a) All child care regulated by the departments of education or human services;
  - (b) Public or private summer day camps or overnight camps such as those operated by the Boy or Girl Scouts, the YMCA or YWCA, by church or religious organizations, or by organizations representing disabled children/youth that operate less than ninety (90) days per year, and other similar businesses or programs as determined by the Department;
  - (c) Entities or persons licensed or otherwise regulated by other agencies of the state or federal governments providing health, psychiatric or psychological care or treatment, or mental healthcare or counseling for children/youth while the entity or person is engaged in such licensed and regulated activity; and
  - (d) Schools and educational programs and facilities, the primary purpose of which is to provide a regular course of study necessary for advancement to a higher educational level or completion of a prescribed course of study, and that may, incident to such educational purpose, provide boarding facilities to the students of such programs; provided, that boarding schools that provide services intended to correct or ameliorate behaviors of children/youth that prevent or inhibit their ability to function normally in their home, community, or school, or agencies serving children/youth as an alternative to their remaining in a dysfunctional or harmful home environment, shall not be exempted from licensure as a child care agency under this part.
- (6) Child care agencies, nontraditional child care agencies, child placing agencies, family boarding homes, group care homes, or foster homes, when licensed in accordance with this section, may receive at-risk or dependent children/youth from their parents or legal guardians for special, temporary, or continued care. The parents or legal guardians shall sign releases or agreements giving to such institutions or agencies custody and control of the persons of such children during the period of care, which may be extended until the children arrive at legal age, or they may surrender such children to a licensed child placing agency for the purposes of adoption. All interstate placements shall meet all pertinent requirements of the Interstate Compact on the Placement of Children (ICPC).
- (7) Unlicensed Placement of Children/Youth for Care or Adoption
- (a) Private individuals, including midwives, physicians, nurses, hospital officials, lawyers, and the officials of any non-chartered or non-licensed child care agencies, child placing agencies, or maternity homes, are forbidden to engage in placing children/youth for temporary care or for adoption. A violation of such prohibition may result in criminal penalties.
  - (b) The Department may maintain an action to enjoin any person, partnership, association, corporation, or other entity from establishing, conducting, managing, or operating any place or facility providing services to children/youth without having a license as required by law, or from continuing to operate any such place of facility following a suspension of a license or following the effective date of the denial or revocation of a license.
- (8) Inspections and Right of Entrance by the Department's Office of Child Welfare Licensing Staff
- (a) It is the duty of the Department to inspect at regular intervals, without previous notice, all child care agencies or suspected child care agencies, as defined in applicable state law. The Department may interview staff, resident children/youth, or volunteers during the course of any inspection.
  - (b) Pursuant to state law, the Department is given the right of entrance, privilege of inspection, access to accounts, records, and information regarding the whereabouts of children/youth under the care of the child care agency for the purpose of determining the kind and quality of care provided to the children/youth and to obtain a proper basis for its decisions and recommendations.



- (c) If refused entrance for inspection or access to the records of a licensed agency or facility, the Department shall exercise any legal remedy available by state law.
- (9) Publicly Administered Child Care Agencies
- (a) Any child care agency, as defined in T.C.A. § 37-5-501 (2022 and as amended) that is under the direct management of an administrative department of the state, a county, or a municipality, or any combination of these three (3), shall not be subject to licensure, but shall meet the minimum standards for programs and care as required of such child care agencies.
  - (b) The Department shall make periodic inspections of such publicly administered child care agencies. The report of such inspections and recommendations shall be made in writing to the executive head of the publicly administered child care agency, the board of directors, if any, and the division of the state, county, or municipal government that has the duty to operate such agency. Visits shall be conducted on a scheduled or unscheduled basis.
- (10) Any licensed child care agency that has not met the terms of compliance by the expiration date of the existing license may continue to be licensed under the existing license while efforts are made by the agency to meet compliance. If, after a period of one hundred and eighty (180) days, the agency still has not met the terms of compliance, the existing license shall be terminated and the existing agency may reapply for licensing after one (1) year has elapsed following the termination date. Any adverse licensing action may be appeal pursuant to the provisions of Rule 0250-04-01-.04 and applicable state law.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

Rule 0250-04-01-.04 Adverse Licensing Action and Appeals

- (1) If any complaint is made to the Department concerning any alleged violation of the laws or regulations governing a child care agency or a nontraditional child care agency, the Department shall investigate such complaint and shall take such action as the Department deems necessary to protect the children/youth in the care of such agency.
- (2) Licensing Action—Probationary Status
  - (a) If the Department determines that a child care agency is not in compliance with the laws or regulations governing its operation, and if, after written notice and a reasonable amount of time, the agency fails to correct the deficiency, the Department may place the licensed agency on probation for a defined period of time. This probationary period shall not be less than thirty (30) days nor more than sixty (60) days. The agency shall be provided a written summary describing the violation that supports the probationary status.
  - (b) If placed on probation, the agency shall immediately post a copy of the probation notice, together with a list provided by the Department of the violations that were the basis for the probation, in a conspicuous place adjacent to the agency's license, and the agency shall immediately notify, in writing, the custodians of each of the children in its care of the agency's status, the basis for the probation, and of the agency's right to an informal review of the probationary status.
  - (c) The agency may request an informal review within two (2) business days of the imposition of probation in writing addressed to the Department's Office of Child Welfare Licensing Director. The licensing director shall informally review the probationary status. The agency may submit any written statements as argument to the licensing director within five (5) business days of the imposition of the probation. Written statements may be received by any available electronic means. The licensing director shall render a written decision upholding, modifying, or lifting the probationary status within seven (7) business days of the imposition of the probation.
  - (d) If the licensing director does not lift the probation, the agency may also appeal such action in writing to the Commissioner within five (5) business days of the receipt of the notice of the licensing director's decision regarding the agency's probationary status. If timely appealed, the Department shall conduct an administrative hearing pursuant to the Uniform Administrative Procedures Act, concerning the Department's action within fifteen (15) business days of receipt of

the appeal, and shall render a decision, in writing, within seven (7) business days following conclusion of the hearing. The hearing officer may uphold, modify, or lift the probation.

- (e) Placing a child care agency in a probationary status is not a prerequisite to any licensing action to suspend, deny, or revoke a license of a child care agency.

(3) Licensing Action—Denial or Revocation

- (a) If the Department determines that any applicant for a temporary license or for the renewal of an existing license has failed to attain, or an existing licensee has failed to maintain, compliance with licensing laws or regulations after reasonable notice of such failure and a reasonable opportunity to demonstrate compliance with licensing laws or regulations, the Department may deny the application for the new or renewed license or may revoke the existing license, provided that the Department may at any time deny a temporary license if the applicant fails to meet the initial requirements for the license.
- (b) Additionally, if the Department determines that repeated or serious violations of licensing laws or regulations warrant the denial or revocation of the license, then the Department may seek denial or revocation of the license regardless of the licensee's demonstration of compliance either before or after the notice of denial of the application or after notice of the revocation.
- (c) If the Department determines at any time that in a period of one (1) year, the greater of two (2) employees or three percent (3 %) or more of employees of a child care agency have been charged with a criminal offense for conduct alleged to have occurred on the premises of the agency, be in connection with the agency employee's job responsibilities, or involve a child served by the agency, and the agency provides residential child care, the Department shall revoke the agency's license.

(4) Licensing Action—Summary Suspension and Appeal of Summary Suspension

- (a) If the Department determines at any time that the health, safety, or welfare of the children in the care of a child case agency or a nontraditional child care agency imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of the license may be ordered by the Department pending any further proceedings for revocation, denial, or other action. If the Department determines that revocation or denial of the license is warranted following suspension, those proceedings shall be promptly instituted and determined as authorized by 0250-04-01-.04(3).
- (b) The Department shall specify in its order of summary suspension the legal and factual basis for its decision, including the specific laws or regulations that were violated by the agency and the reasons that the issuance of the order of summary suspension is necessary to adequately protect the health, safety, or welfare of children in the care of the child care agency or nontraditional child care agency. Summary suspension may be ordered in circumstances that have resulted in death, injury, or harm to a child, or that have posed or threatened to pose a serious and immediate threat of harm or injury to a child based upon the intentional or negligent failure to comply with licensing laws or regulations.
- (c) In issuing an order of summary suspension of a license, the Department shall use, at a minimum, the following procedures:
  - 1. The Department shall proceed with the summary suspension of the agency's license and shall notify the licensee of the opportunity for an informal hearing within three (3) business days of the issuance of the order of summary suspension before an administrative law judge or before a hearing officer who is not an employee of the Department.
  - 2. The notice provided to the licensee may be provided by any reasonable means and shall inform the licensee of the reasons for the action or intended action by the Department and of the opportunity for an informal hearing.

3. The informal hearing shall not be required to be held under the contested case provisions of the Uniform Administrative Procedures Act. The hearing is intended to provide an informal, reasonable opportunity for the licensee to present to the hearing official the licensee's version of the circumstances leading to the suspension order. The sole issues to be considered are whether the public health, safety, or welfare imperatively required emergency action by the Department and what, if any, corrective measures have been taken by the child care agency or nontraditional child care agency following the violation of licensing laws or regulations and prior to the issuance of the order of summary suspension that eliminate the danger to the health, safety, or welfare of the children in the care of the agency. The hearing official may lift, modify, or continue the order of summary suspension.
  4. Subsequent to the hearing on the summary suspension, the Department may proceed with revocation or denial of the license or other action as authorized by rule or state law, regardless of the decision concerning the summary suspension of the license.
- (d) If the conditions existing in the child care agency or nontraditional child care agency present an immediate threat to the health, safety, or welfare of the children in the care of the agency, the Department may also seek a temporary restraining order from the chancery or circuit court of the county in which the child care agency or nontraditional child care agency is located, seeking immediate closure of the agency to prevent further harm or threat of harm to the children in care, or immediate restraint against any violations of the licensing laws or regulations that are harming or that threaten harm to the children in the care of the agency. The Department may seek any further injunctive relief as permitted by law in order to protect the children from the violations, or threatened violations, of the licensing laws or regulations. The use of injunctive relief may be used as an alternative or supplementary measure to the issuance of an order of summary suspension or any other administrative proceeding.
- (5) Appeal of Licensing Action—Denial or Revocation
- (a) Actions by the Department to deny or revoke or to otherwise limit any license, except for the summary suspension of a license, shall be reviewed by the child care agency board of review or other appropriately designated body.
  - (b) If application for the temporary or annual license is denied or if an existing license is revoked, the applicant may appeal the denial or revocation by requesting, in writing, to the Department a hearing before the child care agency board of review or other appropriately designated body within ten (10) days of the personal delivery or mailing date of the notice of denial or revocation. Failure to timely appeal shall result in expiration of any existing licensing immediately upon the expiration of the time for appeal.
  - (c) The hearing upon the denial or revocation shall be heard by the board of review or other appropriately designated body within thirty (30) days of the date of service of the notice of denial or revocation; provided that, for good cause as stated in an order entered in the record, the board or the administrative law judge or hearing office may continue the hearing. In order to protect the children/youth in the care of the agency from any risk to their health, safety, and welfare, the board or administrative law judge or hearing officer shall reset the hearing at the earliest date that circumstances permit.
  - (d) If timely appeal is made, pending the hearing upon the denial or revocation, the child care agency may continue to operate pending the decision of the board of review unless the license is also summarily suspended.
  - (e) The board or other appropriately designated body, as part of its decision regarding the status of the applicant's application for a license or the licensee's license, may direct that the child care agency be allowed to operate on a probationary or conditional status, or may grant or continue the license with any restrictions or conditions on the agency's authority to provide care.
- (6) Limited Licensing Action

- (a) In determining whether to deny, revoke, or summarily suspend a license, the Department may choose to deny, revoke, or suspend only certain authority of the licensee to operate, and may permit the licensee to continue operation, but may restrict or modify the licensee's authority to provide certain services or perform certain functions, including, but not limited to, transportation or food service, enrollment of children/youth at the agency, the agency's hours of operation, the agency's use of certain parts of the agency's physical facilities, or any other function of the child care agency that the Department determines should be restricted or modified to protect the health, safety, or welfare of the children/youth. The board of review or other appropriately designated body may likewise restrict a license or place whatever conditions on the license and the licensee it deems appropriate for the protection of children/youth in the care of the agency. The actions by the Department or the board authorized by this part may be appealed as otherwise provided by relevant state law for any denial, revocation, or suspension.
- (7) Reapplication Following Licensing Action
- (a) When an application for a license has been denied, or a license has been revoked, on one (1) occasion, the child care agency may not reapply for a license for a period of one (1) year from the effective date of the denial or revocation order if not appealed, or, if appealed, from the effective date of the board's or reviewing court's order.
  - (b) If application for a license has been denied, or a license has been revoked, on two (2) occasions, the child care agency may not reapply for a license for a period of two (2) years from the effective date of the denial or revocation order if not appealed, or, if appealed, from the effective date of the board's or reviewing court's order.
  - (c) If an application for a license has been denied, or a license has been revoked on three (3) occasions, the agency shall not receive another license for the care of children/youth from the Department.
  - (d) No person who has served as full or part owner, or as director, or as member of the management of a child care agency shall receive a license to operate a child care agency if that person previously participated in such a capacity in a child care agency that has been denied a license, or for which a license was revoked, on three (3) occasions.
  - (e) A person who has served as full or part owner, or as director, or as a member of the management of a child care agency with a license revoked pursuant to Rule 0250-04-01-.04(3)(c) shall not be issued a license to operate a child care agency for one (1) year following the final date of revocation.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

#### Rule 0250-04-01-.05 General Requirements for Regulated Institutions

- (1) The issuance and continuation of a license or approval to operate as a child care agency or a nontraditional child care agency as defined in 0250-04-01-.02 and T.C.A. § 37-5-501 (2023 and as amended) shall depend upon adherence to all applicable rules and state law.
- (2) The legal and administrative responsibilities of each agency must be clearly defined within the agency's organizational structure. Administrative responsibilities within non-profit incorporated agencies must rest with the Board of Directors.
- (3) The constitution and by-laws of the agency shall be written in a manner that encourages and facilitates progress to ensure the operations and values of the organization reflect current standards of best practice in child welfare. By-laws pertaining to Tennessee licensed agencies shall, at least in part, be specific to those operations within the State of Tennessee.
- (4) An agency's license shall be posted in a prominent area that is visible to the public.
- (5) Child care agencies and nontraditional child care agencies incorporated outside of Tennessee but licensed in Tennessee must maintain compliance with Tennessee licensing rules and regulations when operating in Tennessee.

- (6) No two independent agencies shall be simultaneously licensed at the same location or use the same staff, resources, advisory board, or board of directors.
- (7) Licensed agencies shall provide services in an ethical manner at all times. This shall include:
  - (a) Strict adherence to the practice of confidentiality; and
  - (b) Acting at all times in the best interest of children/youth, families, and clients in so far as this does not violate the social responsibility of the agency for the protection of the community.
- (8) All licensed agencies shall ensure freedom from discrimination or harassment on the basis of race, color, religion, sex, age, disability, marital status, citizenship, genetic information, or any other characteristic protected by law. This applies to children/youth, families, clients, and employees.
- (9) An agency shall not engage in practices that exploit the rights of children/youth in care. Children/youth shall not be identified in connection with fundraising activities or publicity for the agency, including agency-related social media or other online platforms, without written permission from the child/youth, if age appropriate, and the child/youth's parent or legal guardian. Identification of children/youth through personal social media accounts or other online platforms by staff or affiliates of the agency is strictly prohibited.
- (10) Upon admission, the agency shall provide each child/youth with a clear definition of their rights, obligations, and responsibilities, including policy addressing confidentiality. Each child/youth, including those with special needs, shall be assisted in understanding these definitions. For school-aged children, the child's signature shall indicate that all rights, responsibilities, and rules have been explained to them. This documentation shall be maintained in the child/youth's file.
- (11) All agencies shall keep accurate records, to include board minutes, activities, fundraising activities, census/demographic information, etc., which reflect the scope of the agency's operations; information regarding the population served; and documented compliance with state and local ordinances and regulations.
- (12) Reports shall be made to the Department as follows:
  - (a) An annual statistical report shall be completed on forms provided by the Department.
  - (b) Any proposed change in the facility's location shall be reported to the Department's licensing office a minimum of ninety (90) days prior to the proposed move date to facilitate licensure of the new location. Any agency that changes location without obtaining the appropriate license for the new location shall be considered to be operating an unlicensed program as defined in Rule 0250-04-01-.02 and applicable state law and will be subject to any related legal, civil, or regulatory penalties. Opening or relocation of ancillary administrative offices shall be reported within forty-five (45) days of the anticipated opening or move date.
  - (c) Any sentinel event shall be reported immediately to the child or youth's parent or legal guardian and as soon as possible, but no later than twenty-four (24) hours to the Department's licensing office.
  - (d) Upon the escape or disappearance of a child in the care of a child care agency, the agency shall immediately report the disappearance of the child to the chief law enforcement officer for the county in which the agency is located and to the Department's licensing office. The report must include, at a minimum, the facts of the disappearance; the time the child escaped or disappeared; the circumstances under which the escape or disappearance occurred; and a description of the missing child, including the child's age, size, complexion, race, and color of hair and eyes. The agency shall designate an individual responsible for making these required reports. The agency shall also immediately notify the parents or legal guardians of the youth involved. The circumstances involving any youth who abscond from an agency will be immediately reported to local law enforcement agencies and to the parents or legal guardians of the youth involved. Runaway events shall be reported to the Department's licensing office within twenty-four (24)

hours. An individual designated by the agency to make these reports who intentionally fails to comply with the reporting requirement commits a Class B misdemeanor.

- (e) Any known or suspected incidents related to brutality, abuse, neglect, or child sexual abuse shall be reported immediately to the child abuse hotline and to the Department's licensing office.
- (f) A succession roster for reporting any significant emergency situations affecting or potentially affecting the health, safety, or welfare of the children/youth served by an agency, including sentinel events, shall be developed and included in policy accessible to all staff. The Department's licensing office shall be included as a point of contact on any such succession roster.

(13) Provisions for Governing and Advisory Boards

- (a) All agencies registered and operating as 501(c)(3) corporations shall have a board of directors that serves as the governing body of the corporation.
- (b) All for-profit agencies and sole proprietorships shall appoint an advisory board to assist the owner/operator in making crucial decisions regarding the governance of the agency.
- (c) Unless otherwise specified, the following provisions shall be made concerning all non-profit boards of directors:
  - 1. Voting board members shall have limited terms to be determined by the board but not to exceed five (5) years. Non-voting members may remain in an advisory position at the board's discretion.
  - 2. The board shall elect at least three (3) officers to include a chair, a secretary, and a treasurer. Officers' terms shall be limited. Officer roles and their terms shall be specifically defined in the organization's bylaws.
  - 3. Non-profit agencies shall be prohibited from maintaining majority-related boards.
  - 4. The board chair shall be responsible for completing written evaluations of the director's performance of their duties. Such evaluations shall be included in the director's personnel file.
  - 5. The agency director may serve on the board but may not serve as the board chair. If the director serves on the board, the director shall recuse themselves from any voting that directly impacts or involves the director's status, administrative decisions, or salary.
  - 6. Both the director and the board shall perform their duties in a manner subject to the fiduciary duties of care, loyalty, and obedience to the nonprofit corporation.
  - 7. The Advisory Board of Directors of for-profit agencies incorporated within Tennessee must be established and follow the requirements in T.C.A. §§ 48-18-101 through 48-18-111 (2022 and as amended).
  - 8. The Board of Directors of non-profit agencies incorporated within Tennessee must be established and follow the requirements in T.C.A. §§ 48-58-101 through 48-58-112 (2022 and as amended).
- (d) Advisory boards shall be appointed by the owner/operator of a for-profit corporation and must consist of at least three (3) members. A majority of the board shall be unrelated to the owner/operator.
- (e) All governing and advisory boards shall meet at least quarterly and at least one (1) meeting shall be conducted annually with all voting members present.
- (f) Board meeting minutes shall be completed for every meeting of governing and advisory boards and shall be maintained in the agency's administrative records for review.

- (g) Governing or advisory boards for those agencies whose central operations reside outside of Tennessee shall maintain a board membership that ensures at least twenty-five percent (25%) of the board members are residents of the State of Tennessee. Boards established outside of Tennessee shall appoint an advisory board within Tennessee to oversee Tennessee operations.
  - (h) Agencies incorporated outside of Tennessee but licensed in Tennessee shall maintain compliance with all pertinent Tennessee licensing regulations for operations within Tennessee.
  - (i) All agencies shall provide consumer protection to clients from agency impropriety including, but not limited to, breach of contract, dereliction of service provision, or agency closure without warning, by obtaining liability insurance that ensures clients may make claims for redress without filing litigation. Premiums for liability policies shall be paid by the organization unless otherwise provided by law or ordinance.
- (14) Financial Resources
- (a) Any new agency shall provide a projected budget and demonstrate the capacity to adequately fund the agency during the initial sixty (60) days of operation either by cash reserves or an available line of credit equal to projected operating expenses.
  - (b) All licensed agencies with gross annual revenue over \$500,000.00 (excluding grants from government agencies) shall submit to an independent audit of the agency's financial records, accounts, business transactions, accounting practices, and internal controls after the first full year of operation and then once every three years thereafter. This audit shall be conducted by a Certified Public Accountant and shall produce a report that includes the auditor's opinion. The report shall be made available for review by the Department's licensing office. Qualified opinions must be reviewed by the board and such review must be recorded in the minutes.
  - (c) All licensed agencies with gross annual revenue less than \$500,000.00 (excluding grants from government agencies) shall submit to an independent review of the agency's financial records, accounts, business transactions, accounting practices, and internal controls after the first full year of operation and then once every three years thereafter. This review shall be conducted by a Certified Public Accountant and shall produce an accountant's review report. The report shall be made available for review by the Department's licensing office. The accountant's review report must be reviewed by the board and such review must be recorded in the minutes.
  - (d) All licensed residential agencies shall maintain sufficient general liability insurance covering the premises, program vehicles, and program operations.
  - (e) Agencies engaging the solicitation of funds for charitable purposes must comply with applicable federal or state laws or regulations.
  - (f) The agency shall provide to the Department's licensing office a copy of proposed and board-approved annual operating budgets for the upcoming year, itemizing projected expenditures and revenue.
  - (g) All licensed agencies shall provide copies of IRS Form 990 for the year previous to the annual licensing evaluation.
- (15) Procedures for Agencies Using Alternative Organizational/Operational Models
- (a) Agencies whose central administrative functions are either wholly or substantially operated through virtual, cloud-based, or other, decentralized organizational models shall arrange for the inspection of records, including data storage; meetings with administrative personnel; and other functions subject to regulatory review in a manner determined by the licensing office.
  - (b) Such agencies shall make available for review their current license and licensing status, including any current restrictions on regulated activity, on the agency website or in another location widely accessible to potential clients and the general public.

- (c) Electronic record keeping shall be maintained in a manner consistent with the requirements of Rule 0250-04-01-.10(5).
- (d) Agencies using electronic records management shall allow licensing staff direct access to records without previous notice.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

Rule 0250-04-01-.06 Child Safety and Well-Being

(1) Provisions for Prevention, Detection, and Reporting of Child Abuse

- (a) Any employee, foster parent, or volunteer who knows or has reasonable cause to suspect that a child has been sexually abused or having knowledge of or called upon to render aid to any child who is suffering from or has sustained any wound, injury, disability, or physical or mental condition which is such of a nature as to reasonably indicate that it has been caused by brutality, abuse, or neglect, or which on the basis of available information reasonably appears to have been caused by brutality, abuse, or neglect, shall report such harm immediately to the Department's Child Abuse Hotline. Any person who knows or has reasonable cause to suspect that a child has been sexually abused shall report such information to the Department's Child Abuse Hotline, regardless of whether such person knows or believes that the child has sustained any apparent injury as a result of such abuse.
- (b) The agency shall include in policy a provision that staff shall be able to report brutality, abuse, or neglect independently of the agency or its administration.
- (c) Reports to the Child Abuse Hotline shall, wherever possible, include the name, address, and age of the child; the name and address of the person responsible for the care of the child; and details of any incident necessitating the report. The report shall also include all other pertinent information.
- (d) All staff shall be trained annually in the prevention, detection, and reporting of child abuse. The agency will provide, and maintain for each staff member, a signed statement that Tennessee law related to mandatory reporting of child abuse has been reviewed by the staff member.
- (e) The agency shall provide an age-appropriate instructional program focusing on child sexual abuse prevention to all children in its care. The curriculum shall include information on such pertinent subjects as personal ownership of one's body, inappropriate touching, and how to report abuse within the agency. For school-aged children, the child's signature shall indicate that such training has occurred.
- (f) Appropriate treatment and counseling shall be provided for those children or youth within the agency's care who have disclosed sexual abuse. Such treatment shall be provided either by a qualified counselor within the agency or by a qualified therapist within the community. All such treatment and counseling shall be documented within the child's record.
- (g) Agencies shall develop written policy and procedure that offers opportunities for children and youth to communicate with external parties, including legal representatives, the courts, the child abuse hotline, local law enforcement, child-care agencies, and the licensing authority. Agencies shall respect a child's right to privacy and confidentiality regarding such communication unless contraindicated by court action or critical security issues involving the safety of the child or others. Such communication includes electronic correspondence, written correspondence, and communication by telephone. Any incidental limits on communication shall be clearly documented for review by the Department's licensing office. An initial period of routine supervised communication, not to exceed thirty (30) days, shall be acceptable.

(2) Background Vetting

- (a) Each person applying to work with children/youth as a paid employee with a licensed child care agency or nontraditional child care agency or in any position in which any contact with children/youth is likely in the course of the person's employment; or as an adoptive or foster



parent; or a new volunteer who is expected to provide volunteer services in excess of twenty (20) hours per month in a licensed child care agency; or in any position in which any contact with children/youth is likely in the course of the person's volunteer status, shall be appropriately screened for prior criminal behavior and/or abuse history and shall agree to release all records involving the person, related to the criminal history of such person, to the child care agency and to the Department. All background vetting shall be conducted and documented according to requirements developed by the Department.

- (b) Such persons shall also supply fingerprint samples to an approved screening vendor, the TBI, or the FBI for the purposes of obtaining any criminal history.
- (c) The child care agency or nontraditional child care agency seeking to employ the applicant as paid staff, as a volunteer as defined in this Rule, as a foster parent, as an adoptive parent, or the licensee or operator a child care agency or nontraditional child care agency shall be responsible for obtaining and submitting the fingerprint sample for screening and shall include and maintain any information necessary to process and assess the criminal history review in such a manner as may be required by the Department.
- (d) An approved background screening shall also include:
  - 1. A criminal records check from the local law enforcement records or county court records for all residences of the employee within the immediate six (6) months preceding application for employment. If local law enforcement agencies refuse to provide a criminal records check, this shall be documented in the agency's files;
  - 2. Tennessee Department of Health's Vulnerable Persons Registry Clearance;
  - 3. Tennessee Department of Children's Services' Child Abuse Registry Clearance. If an agency experiences difficulty obtaining this information, the agency should notify the Department's licensing office;
  - 4. Driving records check to include current valid driver's license and a check of moving violations records for any staff expected to transport children/youth;
  - 5. National Sexual Offender Registry Clearance;
  - 6. State Drug Offender Registry Clearance; and
  - 7. Tennessee Felony Offender Registry Check.
- (e) At least every two (2) years, the following background checks will be reconducted:
  - 1. National Sexual Offender Registry Clearance;
  - 2. State Drug Offender Registry Clearance;
  - 3. Local criminal background checks;
  - 4. Driver's License/Driving Records check; and
  - 5. Tennessee Felony Offender Registry Check.
- (f) Any findings discovered while conducting background screenings shall be addressed on a case-by-case basis and may result in disciplinary action up to and including termination from employment with the agency.
- (g) Results from completed background checks and renewals shall be documented, and supporting results attached, in the employee's official personnel file. Specific information related to child protective services findings and records involving an applicant shall be maintained in the confidential section of the official personnel file.

- (h) All licensed agencies shall make every effort to contact all prior institutional or facility employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse. In addition, incidents of sexual harassment will be considered when determining whether to hire or promote employees.
- (i) The agency shall have a reporting policy requiring all employees to immediately report any arrests, indictments, or criminal convictions of any criminal offense(s) and any Child Protective Services investigations or substantiations.
- (j) The approval of the applicant for employment, as a volunteer as defined in this Rule, as a foster parent, as an adoptive parent, or the licensee or operator of a child care agency or nontraditional child care agency shall be conditional and dependent upon the results of the criminal history or other screenings as provided in this section. Applicants to serve as foster parent or adoptive parents shall not be approved to serve in such capacities until the results of any applicable screening has been completed and results received. Agency staff may be hired but shall not have direct, unsupervised access to children/youth pending the completion and results of these screenings.
- (k) No person whose fingerprint vetting, criminal history assessment, or other screenings as provided in this Rule indicate a substantiated finding of child abuse, neglect, or endangerment; a conviction of child abuse, neglect, or endangerment; or a felony conviction of a violent crime shall be permitted to be employed in any capacity by a licensed agency; nor may such person be allowed to be a licensee, foster parent, or adoptive parent; nor shall such person be permitted to reside in or otherwise have access to children/youth in the child care agency without the approval of the Department's licensing authority.
- (l) With the exception of those prohibited offenses listed in this Rule, the Department may waive any prior conviction or substantiation disclosed in an application for employment or in an application for other positions as provided in this section that is determined to not pose a safety to the children/youth at the agency either by the nature of the conviction, by mitigating circumstances, by the time elapsed since the crime/conviction, or the severity of the charge.
- (m) All waivers shall be submitted in writing and entered in the official record of the licensed service or facility. This written documentation shall include the justification for the waiver and any official documentation that supports the request. All waivers shall be reviewed by the Department's licensing office and approval or denial will be granted within five (5) business days from receipt of the waiver request and all pertinent documentation.
- (n) Waivers shall not be granted for convictions resulting from criminal proceedings that involve capital offenses or the neglect or abuse of children/youth or any persons; or by substantiation of abuse or neglect of children/youth or any persons from investigations by state agencies; or a felony conviction of a violent crime; or any other offense the Department finds to present a threat to the health, safety, or welfare of children/youth. No applicant will be hired or promoted who has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution as defined in 42 U.S.C. § 1997.
- (o) If an employee leaves an agency and is rehired by the same agency and the fingerprint results for the employee are less than one (1) year old, the original fingerprint check results are considered valid.
- (p) The failure of a child care agency or nontraditional child care agency to adequately conduct background vetting or to exclude a person with known prohibited criminal charges from employment with, or from the provision of volunteer services, or the failure, as determined by the Department, to adequately restrict access to children, shall subject the child care agency or nontraditional child care agency to immediate suspension of the agency's license by the Department.

(3) Volunteers

- (a) For purposes of these rules, a volunteer shall be considered any person providing assistance to the agency without remittance, who may have direct and ongoing contact with the youth equal to or greater than twenty (20) hours per month.
  - (b) The agency shall establish a process of application and screening to ensure that all prospective volunteers are of sufficient character and competence as to meet the agency's needs.
  - (c) All requirements of this rule with regard to background vetting and training related to the prevention, detection, and reporting of child abuse shall be applicable to all volunteers.
  - (d) Paid staff shall provide adequate supervision of volunteers.
  - (e) The agency shall create an individual file containing the application to participate as a volunteer; the results of the background screening process; documentation of orientation and training, including child abuse prevention and training around caring for children with sexual trauma; a declaration of good health; three (3) signed letters of reference; and, at the agency's discretion, a physical exam or general statement of good health, prior to direct contact with children/youth.
  - (f) Religious and community-based organizations providing volunteer services to youth less than twenty (20) hours per month shall meet requirements established by the facility director. Only those individuals who have been vetted for prior criminal behavior required by this Rule either through the organization or by the facility, may have direct access to the youth. This subparagraph shall not be applicable to non-residential programs or foster homes.
- (4) Licensed medical and mental health professionals shall not be subject to the requirements as provided in this Rule. The agency is responsible for verifying the status and authenticity of all medical and professional licensing.
  - (5) Staff contracted by the agency to fill required agency positions, including, but not limited to case management services, shall be subject to the same provisions for background vetting as volunteers.
  - (6) Paid or voluntary interns working full time for the agency shall be subject to the same provisions for background vetting as paid staff. Part time interns who have access to children/youth less than twenty (20) hours per months shall be subject to background vetting at the agency's discretion.
  - (7) All PRN/as needed staff shall be subject to the same background vetting requirements as paid employees.
  - (8) Youth who turn eighteen (18) and remain in the foster care system through the Extension of Foster Care (EFC) program do not require additional background vetting to remain in the home/facility.

Authority: T.C.A. §§ 37-1-403; 37-1-605; 37-5-105; 37-5-106; and 37-5-501, et. seq.

Rule 0250-04-01-.07 Personnel

(1) Agency Personnel Policies

- (a) The board of directors or the governing body, in cooperation with the administrator, shall establish written personnel policies, which shall be provided to each employee prior to or at the time of employment. These policies shall include, but are not limited to:
  - 1. A job description for each position in the agency covering the position's responsibilities, academic qualifications, and required level of experience.
  - 2. Annual salary schedule and performance review requirements.
  - 3. Physical examination policy which must include a required physical examination and tuberculin screening for all employees having contact with children/youth. The examination shall be current to within twelve (12) months prior to hire date. The prospective employee shall not be hired if the results of the physical examination indicate

the presence of a communicable disease or other condition that may pose a risk to the health, safety, or well-being of children and youth.

4. Training activity requirements and method of documentation that employees have met the training requirements.
  5. A defined work week and hours to be worked per week.
  6. Vacation policy that clearly defines amount of time allowed and payment plan.
  7. Sick leave policy.
  8. Policies regarding Social Security, insurance, retirement plans, and other fringe benefits.
  9. Agency grievance procedure.
  10. Grounds for dismissal.
  11. Confidentiality of child/youth information.
  12. Leisure time provision.
  13. Background vetting as required under Rule 0250-04-01-.06.
  14. Policies that require all direct care staff to be a minimum age of nineteen (19).
- (b) The agency shall offer every full time direct care staff member a minimum of eight (8) non-work days per month or its equivalent.
- (c) When staff are absent due to illness, vacation, or any other reason, a plan for continuity of supervision shall be developed and implemented.

(2) Academic Qualifications

- (a) Additional requirements for academic qualifications specific to particular licensing categories are included in the personnel section of the pertinent rule chapters for each licensing category.
- (b) At the agency's discretion, and unless otherwise noted in rules, a bachelor's level employee with five (5) years' experience in a human-services related field, including two (2) years' experience in the provision of residential, foster care, adoption-related services, or any related experience may substitute such experience as qualification for any promotional position within an agency requiring a master's degree by this rule chapter. This provision shall not apply to prospective employees outside the agency.
- (c) All positions requiring an advanced degree shall meet the following provisions:
1. The degree shall have been obtained from an accredited college, university, or educational institution. For the purposes of this Rule, "accredited" means the educational provider is registered on the U.S. Department of Education's Database of Accredited Universities and Higher Education.
  2. The accrediting body for the originating institution shall also be registered with the U.S. Department of Education's Register of Regional and National Institutional Accrediting Agencies.
  3. Degrees received through online and correspondence courses shall be accepted if the provider meets the accreditation criteria above.
- (d) It is the responsibility of the agency to ensure, and document for review, that these provisions are met for every position requiring a baccalaureate or an advanced degree. Documentation should include an official transcript and may include transcripts received electronically from the

originating university. Vetting of academic qualifications through third party entities offering verification services shall not meet the requirements of this section unless the entity provides the agency with documents bearing either a watermark or university seal.

- (e) Waivers regarding the educational provisions may be granted for mitigating circumstances at the discretion of the Department. Waivers shall not be granted for any degree obtained through an institution or organization that is known to grant educational degrees based on inadequate or fraudulent academic offerings and/or assessment of the recipients.
- (f) Verification of academic qualification for positions requiring a high school degree or educational equivalent may be established by obtaining a copy of the staff member's high school diploma, GED diploma, or HiSET equivalent. A special education diploma, statement of attendance, honorary diploma, or correspondence or video course is not considered an equivalent alternative.

(3) Staff Development

- (a) All staff shall successfully complete a minimum of twenty-five (25) hours of preservice orientation and training before assuming casework responsibility for children/youth. Exceptions may be made for those staff who are not involved in the direct care of the children/youth.
- (b) Training shall be under the supervision of qualified staff. Training shall include, but is not limited to, the following:
  - 1. Agency philosophy, policies, and procedures;
  - 2. Confidentiality procedures;
  - 3. Child abuse prevention, detection, and mandatory reporting procedures;
  - 4. First aid;
  - 5. Fire safety;
  - 6. Disaster and emergency preparedness training/evacuation procedures;
  - 7. Universal precautions;
  - 8. Physical restraint techniques, if these techniques are employed at the agency;
  - 9. CPR (adult, child, and infant), as appropriate;
  - 10. Behavior management;
  - 11. Crisis intervention/De-Escalation techniques;
  - 12. Cultural sensitivity training;
  - 13. Medication administration, for those staff administering medication;
  - 14. Commercial Sexual Exploitation of Minors (CSEM): and
  - 15. Caring for children with a history of abuse, neglect, or sexual trauma.
- (c) The agency shall maintain a program of related training that requires all professional and direct care staff a minimum of fifteen (15) hours training annually. Exceptions may be made for those staff not involved in direct care of children/youth. Attendance at conferences and workshops may be included as part of the fifteen (15) hours minimum requirement. Participation in these activities shall be documented in the employee personnel files.
- (d) Clerical staff and other personnel not having direct access to children and youth shall be properly vetted are provided in 0250-04-01-.06(2); receive at least fifteen (15) hours of preservice

orientation and training; and receive an additional minimum of fifteen (15) hours of annual training thereafter. Training topics shall include, but not be limited to, the following:

1. Agency philosophy, policies, and procedures;
  2. Confidentiality procedures;
  3. Child abuse prevention, detection, and mandatory reporting procedures;
  4. First aid;
  5. Emergency preparedness; and
  6. Universal precautions.
- (e) Each volunteer within the agency shall participate in a program of ongoing training and orientation to the philosophies and practices of the agency. Within two (2) weeks of being admitted to the agency's program as a volunteer, the new volunteer shall receive orientation and instructions related specifically to child abuse prevention, detection, and mandatory reporting and confidentiality. The training shall be documented, in writing, in the individual's volunteer file.
- (f) Personnel hired on a temporary basis, either individually or via referral from a professional temporary agency, shall be properly vetted as provided in 0250-04-01-.06(2); shall meet the academic qualifications required for the position in which they are temporarily hired; and shall receive core training as provided in section (d). Additionally, temporary personnel hired into positions whose regular course of duties places that person in a position to exercise supervisory control over children served by the agency, or to have direct access to, or contact with, children served by the agency; shall receive training in the practice of all restrictive behavior management techniques allowable by agency policy and procedure. This training shall also include any restrictive behavior management techniques prohibited by agency policy and procedure. Temporary personnel working for the agency in excess of one (1) year shall meet the training requirements for full-time, permanent staff in similar positions.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

Rule 0250-04-01-.08 Residential and Foster Care Services

- (1) For the purposes of this rule, "Residential Services," unless otherwise indicated, shall apply to all residential and foster care services.
- (2) Each agency shall develop written rules and behavioral guidelines for children/youth admitted to the agency's program. The agency shall provide each child/youth a copy of these rules and guidelines and shall ensure that each child/youth understands these requirements.
- (3) Approval by authorized representatives of the State Fire Marshal or local fire inspector, the Tennessee Department of Health, and the Department's licensing office shall be obtained prior to admitting youth. This provision shall not apply to individual foster homes.
- (4) All community based, non-contiguous independent living programs that serve children/youth under the age of eighteen (18) and that are operated by a child placing agency shall be approved under the existing child placing agency's license.
- (5) Each child care agency and nontraditional child care agency shall demonstrate compliance with local zoning ordinances prior to the issuance of a license.
- (6) Admission and Discharge Policy and Procedure/Case Management
  - (a) Children must not be accepted into an agency's care unless it is clearly established that each child's own family, with help, cannot offer them a home. Children must not be admitted solely because they are in need of care away from their own homes, but rather because they are in need of the specific type of care and services a particular agency has to offer.

- (b) The agency shall have written policy and procedures regarding admission and discharge of children/youth that shall be available to all appropriate parties involved with the child/youth. These policies shall address the following:
1. The development of a written statement for agencies providing services to birth parents advising that surrender for adoption is not criteria for admission.
  2. The development of a description of qualifying criteria for admissions into the program.
  3. Admission of all children/youth from other states shall be conducted in accordance with the Interstate Compact on the Placement of Children (ICPC).
  4. Children/youth shall be accepted into the program only via written application provided and signed by the person or agency representative legally authorized to act on behalf of the child. This includes legally valid electronic signature.
  5. Written permission for the agency staff to obtain emergency medical care for a child/youth shall be signed by the legal guardian of or duly authorized representative for the child prior to the child being admitted to the agency's program.
  6. Development of policies detailing information required for reviewing referrals for admission and accepting clients into the program. These materials shall include, if applicable and available:
    - (i) Social history;
    - (ii) Current medical information and medical history;
    - (iii) Current psychological examinations; and
    - (iv) Educational records.
  7. A description of established pre-placement procedures which shall include pre-placement visits when feasible.
  8. The agency's policies regarding religious practices and gifts; visitation; handling of mail; and telephone correspondence between the child/youth and their family shall be presented to the family in writing within ten (10) days of admission and shall be made available for review by the Department's licensing office.
  9. Written discharge criteria shall include:
    - (i) Definition of conditions under which a child/youth may be discharged;
    - (ii) Requirements for successful completion of the program;
    - (iii) Preparation of a child/youth for discharge;
    - (iv) Discharge summary;
    - (v) A signed, written agreement that relieves the agency of legal responsibility for the child/youth upon the discharge date. This agreement shall be signed by the person or agency representative legally authorized to act on behalf of the child; and
    - (vi) If applicable, a description of aftercare services and coordination.
- (c) The agency shall be responsible for children/youth's school attendance in accordance with applicable state law.

- (d) The agency shall conduct, at a minimum, quarterly staffing sessions for each child/youth related to the child/youth's progress and future goals. These sessions shall include all appropriate personnel and stakeholders. Documentation of all staffing sessions shall be available for review by the Department's licensing staff.
- (e) There shall be at least two (2) hours per week of casework services for each child/youth.
- (f) Residential services shall include, but not be limited to:
  - 1. Pre-admission screening, which shall include a family and social history, physical examination, immunization record, and other relevant medical and psychological information;
  - 2. Preparation of the child/youth and their family or prior placing agency for admission to include pre-placement visits when feasible;
  - 3. Development and implementation of a service plan within thirty (30) days which shall include:
    - (i) Health services: minimally, a semi-annual dental examination; an annual physical examination; and any necessary medical or dental follow up as recommended by the physician or other medical professional;
    - (ii) An educational/vocational plan;
    - (iii) Treatment services;
    - (iv) Periodic evaluation of the child's family situation and their ability and willingness to make a home for the child/youth according to the timetables set forth in state and federal law;
    - (v) A visitation plan for all appropriate family members unless contraindicated;
    - (vi) Identification of appropriate long term goals;
    - (vii) Provision for the child's daily needs, which shall include clothing compatible in quality and variety to that worn by the children/youth in the community, and having funds available for allowances and incidental expenses such as haircuts, personal hygiene products, and school supplies; and
    - (viii) Quarterly evaluation and revision of the service plan;
  - 4. Serving as a liaison between family, custodian, and agency; and
  - 5. Assuring that agency practice meets all provisions of the Foster Care Review Law.
- (g) For children/youth with special needs, provisions shall be made to address needs for those youth who exhibit or who have documented physical or intellectual disabilities or impairments, and/or mental or emotional health issues.
- (h) Provisions shall be made for children/youth and for involved family members who have Limited English Proficiency (LEP). Examples of such provisions may include, but are not limited to, interpreter services, proficiency in the use of electronic translation devices, handbooks and other related materials presented in Spanish, etc.
- (i) The agency shall make arrangements for each child to accumulate appropriate meaningful materials such as photographs, clippings, artwork, and/or schoolwork which provide the child with reminders of his/her experience while in care.



- (j) All monies earned or received directly by a child during the period of admission, whether accrued through allowances paid by the agency or by other means, remains the property of the child and shall be transferred to the child upon discharge.
  - (k) All children shall have regular access to associated attorneys, appropriate to the age of the child. The scope of the contact shall be determined by the child's attorney.
- (7) Compliance with the Interstate Compact on the Placement of Children (ICPC) shall be required for placement of a child or children across state lines for the purposes of foster or residential care or preliminary to an adoption. The agency shall contact the Tennessee ICPC office to obtain published guidelines and training on compliance with interstate compact requirements. This includes all independent or private agency adoptive placements initiated by a birthparent or birthparents or legal guardians with right of consent, all private licensed child-placing agency placements of a child or children who are in the full or partial guardianship of the agency; and adoptive placements authorized by the Tennessee court(s) between relatives other than those described in the ICPC Article VIII. Failure to comply with ICPC requirements in the admission or placement of children may result in adverse licensing action.
- (8) Supervision of Children/Youth
- (a) Agencies providing full time residential or foster care shall not provide part time day care to children unless the Department's licensing office consents.
  - (b) A responsible adult staff member shall supervise children/youth in care at all times. Teenagers may be left unattended for brief periods if they have met the requirements of the agency's written protocols under such circumstances. A written plan shall be developed to obtain additional staffing during times of emergency. Residents of independent living programs will have individual program plans regarding the amount of supervision the independent living residents require.
  - (c) There shall be at least one (1) direct care staff for every eight (8) children/youth in residential care at all times unless otherwise specified by rule. The agency is responsible for ensure that scheduling, timekeeping, and census data are maintained in a way that allows accurate review of child/staff ratio compliance. Compliance is calculated by comparing census data to staff rosters, not staff schedules, for a given day.
  - (d) Agencies shall include in policy a crisis intervention plan that addresses procedures to be followed in the event children/youth exhibit behavior that poses a risk to themselves or others. This shall include contingencies for assaultive behavior, self-harm, suicidal ideation, runaway, or other concerning behavior.
  - (e) Staff shall be designated by the director to respond to crisis situations and an authorized designee from the agency shall be available to respond to such crises on a twenty-four (24) hours basis.
- (9) Health/Medical Requirements
- (a) An agency shall provide comprehensive medical services on behalf of children/youth including, but not limited to:
    - 1. Health Screening for Admission:
      - (i) The agency shall obtain a physical examination for each child/youth. The examination shall be completed no more than twelve (12) months prior to placement or an appointment shall be scheduled no later than thirty (30) days after placement.
      - (ii) The child/youth must have all immunizations required by the Department of Health. Tennessee recognizes medical or religious exemptions to immunization requirements which should be indicated on the immunization record. The parent/guardian should provide a notarized statement if it is not indicated on the immunization record.

- (iii) The agency shall maintain a written record of the information required by this part.
  - (iv) The agency shall ensure that current immunization records for all foster parents and biological/legal children of foster parents are included in the file.
2. Ongoing Medical Care:
- (i) Every child/youth starting at age one (1) shall have a dental examination at least semi-annually and follow up treatment as required by their dentist.
  - (ii) Children/youth in an agency's care shall have physical examinations in keeping with the Tennessee Department of Health's guidelines for Preventative Pediatric Healthcare.
  - (iii) Children/youth shall receive timely medical treatment from a licensed health care provider, as needed.
  - (iv) Children/youth shall receive timely psychiatric and/or psychological services as needed.
  - (v) Female children/youth shall receive gynecological and family planning services as needed.
3. Illness: At all times and especially during periods of illness, all staff and resident children/youth shall follow universal, standard precautions and CDC infection control guidelines. During influenza season, staff, resident children/youth, and visitors shall follow CDC Fundamental Elements to Prevent Influenza Transmission.
4. Medication:
- (i) Prescription medication, standing orders, and treatments shall only be administered by order of an appropriately licensed healthcare provider.
  - (ii) All medication, including over-the-counter medications, shall be secured using a "double lock" system that combines a locked door and a locked container, two locked doors, etc. Any refrigerated medication shall be refrigerated in a single-lock leak proof box.
  - (iii) Each prescription medication shall be transcribed onto an approved Medication Administration Record ("MAR"). Administration of all prescription medication shall be documented on the MAR. Patient drug information sheets, included with all prescriptions, shall be kept with the MAR for reference information. PRN administration of any over the counter ("OTC") medication shall be documented in each child/youth's file.
  - (iv) Medication shall be administered as prescribed. Any changes in medication orders shall be recorded on the MAR. The MAR should be completed by an authorized person who is familiar with the medications listed, doses ordered, and any abbreviations used.
  - (v) The administering staff's initials and/or signature must be in an appropriate space on each MAR.
  - (vi) Missed or refused doses shall be reflected on the MAR, shall be initialed by the administering staff, and shall reflect the reason for the missed or refused medication.
  - (vii) Ditto marks shall never be used on the MAR. Any evidence of falsification of the MAR record may constitute grounds for adverse licensing action.

- (viii) Any missing medication, transcribing errors, and/or administration errors shall be reported to the facility administration immediately.
  - (ix) Prescription medication that has been discontinued, expired, unidentifiable, or has a missing or illegible label shall not be used and must be destroyed within forty-eight (48) hours of discovery. Disposal shall be witnessed by two (2) people and shall be completed according to the U.S. Food and Drug Administration guidelines.
  - (x) All prescription medications shall be hand counted. Counts shall be recorded on a log or on the MAR.
  - (xi) Arrangements shall be made for children/youth to receive prescribed medications while on pass. Medications shall be sent in their original container with written instructions on what the medication is and when the medication should be administered. If it is unsafe to send the entire amount, a duplicate prescription container shall be requested from the pharmacy.
  - (xii) Any used syringes shall be disposed of in an approved biohazard sharps container.
  - (xiii) It is the responsibility of agency staff to ensure that all foster homes operating under their license are compliant with these rules.
- (b) First aid kits shall be maintained close to all living areas and in any vehicles used to transport children or youth. First aid kits shall be inspected on a regular schedule by designated staff and any perishable items, such as medications, topical ointments, and eye washes, shall be replaced prior to listed expiration dates.
- (c) The use of all tobacco products by children/youth is prohibited. Staff or volunteers may only use such products in designated areas not inhabited or occupied by children/youth.
- (10) Education/Religious Services
- (a) All children/youth must attend public school or an approved onsite school in compliance with state law regarding compulsory school attendance.
  - (b) Youth with disabilities whose impairment negatively impacts their ability to adequately participate in educational services shall be accommodated by the agency or by consultation with the local education agency.
  - (c) If the agency offers an onsite educational program, the education program shall be approved by and use course standards approved by the Tennessee Department of Education. Documentation of the agency's efforts to meet this standard shall be kept and provided to the Department's licensing office upon request.
  - (d) The agency shall offer an environment conducive to the spiritual development of the child/youth. All children/youth shall be provided the opportunity to participate in religious activities. The agency shall make, and document, reasonable efforts to accommodate a child/youth's individual spiritual beliefs.
- (11) Food Services/Nutrition/M meal Planning
- (a) Current food service guidelines and a menu approved by a registered dietician or nutritionist shall be used in all meal preparation whether meals are prepared on or off-site. Food of adequate quality and quantity must be served and shall meet the caloric intake guidelines for youth as recommended by the USDA. This paragraph shall not be applicable to Runaway Houses or Foster Homes.

- (b) Three (3) meals and a substantial evening snack shall be provided daily with no more than a fourteen (14) hour span between the evening meal and breakfast on the following day. At least two (2) of these meals shall be hot.
- (c) All meals prepared onsite shall be under the direct supervision of agency staff. Any meals prepared off site and delivered to the facility shall be served expeditiously to maintain safe serving temperature and palatability. This paragraph shall not be applicable to individual foster homes.
- (d) Written policy and procedure shall require that accurate records are maintained on the number of meals served per day, the actual food served, and the scheduled mealtimes.
- (e) Withholding of meals or mandated supplemental snacks shall not be used as punishment. Such action shall be grounds for adverse licensing action. Food may only be used as a reward when offered in addition to the minimum requirements established in this Rule.
- (f) All medically modified diets of youth shall be prepared and offered as prescribed by a physician, nurse practitioner, and/or recommended by a registered dietician or nutritionist. This includes diets implemented by the agency to help children achieve and maintain a healthy weight. Special provisions shall be made to accommodate religious diets and shall be documented for review by the Department's licensing office.
- (g) The preparation or storage of food shall not be permissible in living quarters of residential programs. All food preparation and storage shall meet current Tennessee Department of Health guidelines.
- (h) Proper storage of food shall assure that there will be no contamination of the food from any source. Insecticide, cleaning agents, and poisonous substances shall be stored away from food and plainly labeled. Airtight containers/wrapping shall be used in the storage of frozen, refrigerated, and perishable items. Agencies and foster homes shall use "first in/first out" rotation in the storage of all food products.
- (i) The temperature of potentially hazardous food shall be 41°F or below or 135°F or above at all times except as otherwise provided in the current edition of the ServSafe Manager Book.
- (j) All refrigerators/freezers shall be clean and contain a thermometer. The temperature shall be maintained at 41°F or below in all refrigeration units. The temperature shall be maintained at 0°F for all freezer units. Fluctuation in temperatures from incidental use shall not be considered noncompliance. The temperature for the dry storage area shall be between 50°F to 70°F.
- (k) Medication stored in refrigerators containing food products shall be maintained in a locked airtight container.
- (l) All food products shall be stored at least six (6) inches off the floor on shelves or in shatterproof containers with tight fitting lids.
- (m) Industrial stoves in residential settings shall be equipped with operable hooded exhaust systems and the filters shall be kept clean. Hoods shall be inspected twice yearly and inspections documented for review. This paragraph shall not be applicable to Family Boarding Homes, Runaway Houses, or Foster Homes.
- (n) A system for the control of all sharp tools and utensils and chemicals shall be documented in policy and observable in practice in agencies or foster homes.
- (o) All menus for the agency must be approved by a nutritionist or registered dietician. Menus for each week shall be prepared and posted in advance. These menus shall be followed and shall be varied from week to week. Substitutions are permissible if the substituted menu meets reasonable nutritional guidelines. Donated food shall meet health department guidelines for serving and storage. All substitutions shall be noted by the agency for review. This section shall only apply to Group Care and Family Boarding Homes, Residential Child Care Agencies, Maternity Homes, and Nontraditional Child Care Agencies.

- (p) Menus shall be kept on file for a period of six (6) months.
  - (q) Menus shall be posted in dining areas.
- (12) Recreational Planning
- (a) Regular opportunities for recreation shall be incorporated into daily schedules.
  - (b) Outdoor activity areas shall be clean and free of hazardous materials or conditions.
  - (c) All activity shall be planned and conducted in a manner to promote maximum safety with the supervision of appropriately trained staff.
  - (d) Appropriate recreational materials and supplies shall be provided. Repairs to broken items shall be carried out promptly.
  - (e) There shall be a minimum of one (1) hour of “major muscle group” recreational opportunity per day.
- (13) Clothing/Cash Allowances
- (a) Clothing shall be clean, of proper size, and suited to seasonal conditions.
  - (b) There shall be adequate storage space in or near the sleeping areas to permit children/youth access to clothing.
  - (c) Clothing shall be laundered at least weekly, or more often if needed.
  - (d) Socks and underwear shall be provided new to each child/youth; shall be marked with the child/youth’s name; and shall be included among the child/youth’s items at time of discharge.
  - (e) Children/youth shall have enough clean clothing to ensure a change of clothes daily.
  - (f) There shall be an opportunity for children/youth to earn an allowance while in the program. Such opportunities may be incentivized and tied to student behavior.
  - (g) Clothing shall not be used as a form of punishment, stigmatization, or humiliation.
- (14) Family Engagement
- (a) The requirements of this paragraph may not be applicable if family contact is considered contraindicated by the administrator or the court due to safety concerns concerning the youth or the agency. The facility administrator or designee shall document any such concerns.
  - (b) Agencies shall provide a method for parents and guardians, including individuals who have Limited English Proficiency (LEP) or physical or mental impairment(s), to ask questions about the agency and its programs and ensure that those questions are, wherever possible, answered to the satisfaction of the parent/guardian.
  - (c) Parents and guardians shall receive contact information for a staff member who they can contact to obtain information about their child and his or her adjustment to the program. The program shall make appropriate arrangements to communicate with parents or guardians who have LEP or physical or mental impairment(s).
  - (d) Staff shall encourage contact between children/youth and family members through mail, telephone, visitation, and other means, unless specifically prohibited by court order.
  - (e) Agencies shall respect a child/youth’s right to privacy regarding communication with parents or legal guardians as provided in this Rule.

- (f) Parents, guardians, and other family members shall be able to register complaints about the treatment of youth. Agency administrators shall promptly reply to such complaints. The agency shall make appropriate arrangements to receive complaints from parents or guardians who have LEP or physical or mental impairment(s). Complaints received through the Department's licensing office shall require an official written response and, at the discretion of the licensing office, may require corrective action.
- (15) Shared Sleeping Arrangements
- (a) With the exception of a mother/child placement, children of opposite gender over the age of five (5) shall not sleep in the same room.
  - (b) Children/youth shall not sleep in the same room with adults. This restriction does not apply to infants up to two (2) years of age. Exceptions may be made regarding temporary short-term arrangements to address illness or emotional trauma.
  - (c) Continued living arrangements for those youth who share a room with a minor and who continue to receive services beyond the age of eighteen (18) shall be at the discretion of the facility.
- (16) For the purposes of maintaining a reasonable expectation of privacy for all children/youth, the use of cameras is strictly prohibited in private sleeping quarters and restrooms of all DCS licensed residential programs and in all foster homes. Use of cameras in these areas in violation of this rule may result in adverse licensing action. Exceptions may be made, at the discretion of the licensing office, for the use of video/audio monitoring equipment in bedrooms to ensure safe sleep for children up to three (3) years of age in foster and congregate care settings, and in residential treatment programs that serve sexual offenders and/or function as part of a mental health continuum of care.

Authority: T.C.A. §§ 37-2-401, et. seq; 37-5-105; 37-5-106; and 37-5-501, et. seq.

Rule 0250-04-01-.09 Seclusion, Restraint, and Discipline

(1) Use of Discipline in Residential Settings

- (a) The agency shall have clearly defined written standards of behavior for the child/youth and staff, which shall be presented to the child/youth and other involved parties prior to or upon admission.
- (b) Written policy and procedure shall prohibit the following:
  - 1. Cruel and unusual punishment;
  - 2. Assignment of excessive or inappropriate work;
  - 3. Denial of meals or use of food as a form of punishment in any regard;
  - 4. Verbal abuse, profane language, ridicule, or humiliation;
  - 5. Supervision/punishment of a child/youth by their peers;
  - 6. Chemical defense sprays or mechanical restraints, as defined in 0250-04-05-.05(1) in all non-hardware secure agencies;
  - 7. Denial of reasonable access to normal living quarters within the home except for short periods of time not to exceed one (1) hour. Bathroom access shall always be available;
  - 8. Denial of planned visits, telephone calls, mail, or contacts with family; and
  - 9. Corporal punishment.
- (c) All discipline shall be reasonable and responsibly related to the child/youth's understanding, need, and level of behavior.

(2) Provisions Regarding Seclusion and Restraint in Non-Hardware Secure Residential Settings

- (a) For the purposes of this section, "Physical Restraint" means the use of body contact by staff/foster parents with a child/youth to restrict freedom of movement or normal access to his or her body.
- (b) Physical touch associated with prompting, comforting, or assisting that does not prevent the child/youth's freedom of movement or normal access to his or her body shall not be considered physical restraint and is considered acceptable.
- (c) For the purposes of this section, "Seclusion" means the involuntary segregation of a child from the rest of the resident population regardless of the reason for the segregation, including confinement to an area where other children may be seen or heard but are separated from the child. This definition is not limited to instances in which a child/youth is confined by a locked or closed door.
- (d) Physical restraint shall be allowed only in facilities licensed as Group Care Homes, Runaway Houses, Nontraditional Child Care Agencies, or Residential Child Care Agencies, and only when staff have been appropriately trained in therapeutic holding or nationally certified restraint techniques. The use of physical restraint shall be allowed only in the case of an emergency when the child/youth is at imminent danger of self-harm or of harming others and no other option exists to protect the safety of the child/youth and staff members. At least two (2) staff shall be present during any physical restraint.
- (e) Physical restraint shall be prohibited in private foster homes or programs licensed as Family Boarding Homes.
- (f) While physical restraint shall be prohibited in foster homes and Family Boarding Homes, there may be rare, emergency situations in which a foster parent or Family Boarding Home staff member may have to intervene physically in order to keep a youth safe (e.g. to separate two (2) youth who are fighting when one (1) or both youth require restriction of movement). The agency shall document for review by the licensing office all incidents of physical restraint, including precipitating events, efforts at non-physical de-escalation techniques, an accounting of all parties involved, duration of the restraint, and any injuries resulting from the restraint and subsequent treatment.
- (g) The following physical restraint practices are prohibited under any circumstances at all non-hardware secure residential settings:
  - 1. Restricting respiration in any way, such as applying a chokehold or pressure to a youth's back or chest or placing a youth in a position that is capable of causing positional asphyxia;
  - 2. Prone restraints, as defined in 0250-04-05-.05(1);
  - 3. Using any method that is capable of causing loss of consciousness or harm to the neck;
  - 4. Pinning down with knees to torso, head, and/or neck;
  - 5. Using pressure point, pain compliance, and joint manipulation techniques, other than approved methods for release of a chokehold, bite, or hair pull. Direct care staff shall be specially trained in such approved methods if those methods are allowable under agency policy;
  - 6. Lifting a youth's arms behind the back in a manner that is capable of causing injury to the shoulder; and
  - 7. Using other youth or untrained staff to assist with a physical restraint.
- (h) Seclusion shall not include:

1. The segregation of a child for the purpose of managing biological contagion consistent with the centers for disease control and prevention guidelines.
  2. Voluntary time-out involving the voluntary separation of an individual child/youth from others. The child/youth is allowed to end the separation at will.
  3. Temporarily securing children in their rooms during regularly scheduled times, such as period set aside for sleep or regularly scheduled down time, that are universally applicable to the entire population or within the child's assigned living area.
- (i) Seclusion lasting longer than one (1) hour shall be allowed only to prevent harm by a child/youth to themselves or others. The duration of the seclusion shall not exceed the length of time necessary to ameliorate the danger and shall never exceed four (4) hours in length. Room confinement for up to one (1) hour to facilitate a "cooling off" period is acceptable.
  - (j) Seclusion shall not be used for discipline, punishment, administrative convenience, retaliation, staffing shortages, or any reason other than a temporary response to behavior that threatens immediate harm to a youth or others.
  - (k) All residential agencies, including those that maintain foster homes and family boarding homes, shall have an organizational philosophy that works to prevent, reduce, and eliminate the use of all physical restraints and seclusion and prevent emergencies that have the potential to lead to the use of restraints or seclusion.
  - (l) Physical restraint and seclusion shall be implemented in a manner designed to protect the child/youth's safety, dignity, and emotional well-being.
  - (m) Staffing levels and resources shall be set to minimize circumstances that give rise to emergency situations that may require the use of physical restraint or seclusion, and that maximize safety when these interventions are used. Whenever seclusion or restraint is used, there shall be sufficient staffing to ensure appropriate supervision of all other children/youth while trained staff devote their full time and attention to all uses and phases of physical restraint and seclusion.
  - (n) Clothing shall not be removed from a child/youth in conjunction with the use of physical restraint or seclusions, other than those clothes determined to place the child/youth or others at risk.
  - (o) Training shall address prevention of the use of restrictive behavior management techniques through a curriculum that includes the following:
    1. Recognizing aggressive and out-of-control behavior, psychosocial issues, medical conditions, and other contributing factors that may lead to a crisis;
    2. Understanding how staff behavior can influence the behavior of children/youth;
    3. Understanding the limitations of restrictive behavior management techniques such as physical restraint or seclusion;
    4. Listening and communication techniques such as de-escalation, negotiation and mediation;
    5. Involving the person in regaining control and encouraging self-calming behaviors;
    6. Separation of individuals involved in an altercation;
    7. Physical intervention for the temporary touching or holding of the hand(s), wrist(s), arm(s), shoulder(s), or back for the purpose of inducing the child to walk to a safe location;
    8. Voluntary time out to allow the person to calm down; and



9. Other non-restrictive methods to de-escalate and reduce episodes of aggressive and out-of-control behavior.
- (p) Training shall include understanding of:
1. When it is appropriate to use a restrictive intervention such as physical restraint or seclusion;
  2. Safe use of physical restraint and seclusion, including time limits;
  3. Understanding of the experience of being placed in a physical restraint or in seclusion;
  4. Response techniques to prevent and reduce injury; and
  5. Negative effects that can result from misuse of restrictive interventions.
- (q) Training shall also include staff learning to recognize and assess the following during a restrictive behavior management intervention, such as physical restraint or seclusion:
1. Physical and mental status of the child/youth, including signs of physical distress;
  2. Nutritional and hydration needs of the child/youth;
  3. Readiness to discontinue use of the physical restraint or seclusion; and
  4. Recognizing when medical or other emergency personnel are needed.
- (r) The staff member(s) performing a physical restraint or seclusion shall contact the agency director or designee to authorize the intervention either prior to the intervention, or immediately following the intervention if obtaining prior permission is infeasible due to the emergent nature of the situation. While it is best practice to obtain this authorization prior to the intervention, this is not always possible when handling the types of emergencies requiring the use of physical restraint or seclusion.
- (s) For seclusion, objects that can be used to inflict self-injury, such as belts, shoes, and jewelry, shall be taken from the child prior to placement of the child in seclusion if there are indications in the child/youth's record or if the child's current behavior suggests that such precautions are warranted.
- (t) All use of seclusion or restraint in a foster or residential setting, including precipitating circumstances, de-escalation techniques, and aftercare shall be clearly documented and reviewed by the agency director. A signed copy of this administrative review shall be kept on file. Agencies shall use data throughout the year to identify trends in use of restrictive behavior management techniques in order to reduce the use of physical restraint and seclusion.

Authority: T.C.A. §§ 37-5-105; 37-5-106; 37-5-214; and 37-5-501, et. seq.

#### Rule 0250-04-01-.10 Physical Plant

- (1) All residential facilities shall be constructed according to standards approved by the Tennessee Department of Health and the Fire Safety Division of the Tennessee Department of Commerce and Insurance.
- (2) All residential locations shall be inspected annually by the designated Fire Safety Authority and by representatives from the Tennessee Department of Health. The agency shall be in compliance with the applicable regulations and standards of these authorities, including the current Life Safety Code applicable to the home or residential agency prior to obtaining or retaining a license.
- (3) Agency buildings and grounds shall be kept in good order, clean, free of clutter, free of vermin, and in a safe condition at all times.

- (4) The agency shall provide routine pest control and supplemental treatment, as needed.
- (5) Residential areas and foster homes shall be free of graffiti and offensive posters, pictures, magazines, and like material. The agency shall establish a policy to ensure an ongoing process for removing graffiti and other offensive material.
- (6) Common rooms shall be provided to facilitate relaxation, recreation, group conversation, and other appropriate activities.
- (7) All furniture shall be maintained and in good repair in all residential areas and foster homes.
- (8) Provisions for Sleeping Areas
  - (a) Each child/youth in a residential or foster home setting shall have a suitable separate bed, which shall minimally consist of a twin-size mattress with adequate support and padding in an appropriate bed frame.
  - (b) Each child/youth in a residential or foster home setting shall be provided with adequate bedding in good repair which shall include sheets, pillows, pillowcases, mattress covers, and additional covering as needed. Linens shall be laundered at least on a weekly basis and other items laundered as needed.
  - (c) Each bedroom in a residential or foster home setting shall offer two (2) avenues of egress in the event of a fire or other emergency unless otherwise indicated by the designated Fire Safety Authority.
  - (d) Bedrooms provided to children/youth in foster homes shall be consistent in furnishings, size, and appearance to those provided to biological children within the home.
  - (e) Sixty-five (65) square feet of unencumbered floor space in the sleeping area shall be made available for the first child/youth and fifty (50) square feet shall be available for each additional child/youth and shall provide adequate storage space for clothing and personal belongings. This subparagraph shall apply to all residential and foster home settings.
  - (f) There shall be no more than four (4) children/youth assigned to any sleeping room. This subparagraph shall apply to all residential and foster home settings.
- (9) Sanitary Facilities
  - (a) One (1) flush toilet, one (1) hand washing facility, and one (1) shower or tub shall be provided for every four (4) children/youth in group care/family boarding homes, maternity homes, and runaway houses, and for every eight (8) children/youth in residential child care agencies.
  - (b) Reasonable privacy shall be provided for personal hygiene in regard to bathing and use of toilets. All showers and toilets shall have partitions and seats shall be maintained on all toilets. Showers and toilets shall be kept clean and in good working order.
  - (c) There shall be an adequate and sanitary system of sewage disposal.
  - (d) The water supply shall be obtained from a source or system approved by the Tennessee Department of Health. Well water shall be permitted when tested and approved by the Department of Health.
  - (e) All garbage shall be placed in a tightly covered container and disposed of in a sanitary manner.
  - (f) Individual towels and washcloths shall be provided for each child/youth and laundered at least twice a week or when soiled. Provisions shall be made to keep all toilet articles separate.
  - (g) Feminine hygiene materials shall be kept on hand and provided as needed.

- (h) There shall be a laundry space supplied with hot and cold running water under pressure, dryers, and supplies. There shall be adequate equipment to meet the needs of all children/youth. The use of commercial equipment is strongly recommended.
  - (i) An adequate supply of bedding and towels shall be maintained. Bedding shall be cleaned as follows:
    - 1. Sheets, pillowcases, and mattress covers shall be changed and washed at least once a week;
    - 2. Bedding shall be disinfected after use by each child/youth; and
    - 3. Blankets shall be laundered or otherwise sterilized before reissue.
- (10) Life Safety Requirements
- (a) All residential agencies and foster homes shall meet adequate health and fire safety provisions. This shall include:
    - 1. Smoke detectors in all sleeping rooms;
    - 2. Fire extinguishers;
    - 3. Landline or cellular telephones with emergency numbers posted nearby; and
    - 4. Written contingency plan in the event of fire, medical emergency, natural disaster, or other similar event.
  - (b) The facility shall provide for regularly scheduled disposal of waste and trash in accordance with local or state health regulations.
  - (c) Written policy and procedure shall provide for quarterly announced and unannounced fire drills. Dates, participating staff, and results of all drills shall be documented, in writing, for review.
  - (d) The facility shall have a written and graphic evacuation plan posted in the living area, as well as any other specified locations.
  - (e) Written policy shall outline appropriate infection control procedures and the use of universal precautions.
  - (f) Licensed residential facilities shall maintain Material Safety Data Sheets ("MSDS") in all areas where harmful chemicals are stored. The MSDS shall be maintained for every chemical onsite whose original container contains precautionary wording around exposure or ingestion.
  - (g) All toxic/caustic chemicals with a National Fire Prevention Association ("NFPA") hazardous rating of category two (2) or higher shall be maintained in locked cabinets and inventoried weekly. All flammables shall be maintained in fire-resistant cabinets.
  - (h) All toxic/caustic chemicals maintained at full strength shall be stored in their original containers. Diluted chemicals may be maintained in spray bottles or other containers, but the contents shall be legibly written on the bottle.
  - (i) The facility shall remain in compliance with Life Safety Codes as determined by the State Fire Marshal or other approved authority.
  - (j) All firearms shall be stored in a locked cabinet with ammunition stored separately in a locked container. Law enforcement officers acting as foster parents shall secure and maintain control of their weapons at all times within the home.
  - (k) To ensure fire safety, fire extinguishers and smoke detectors shall be installed in compliance with the current life safety code regulations. Fire extinguishers shall be inspected every thirty (30)

days by designated agency or facility staff. This inspection shall include a check to ensure the extinguisher is in its designated place, is visible, and is accessible for immediate use; a check of the service date to determine need for inspection or maintenance; a check that the extinguisher gauge needle is in the operating range; and a check that the visual inspection seal is in place. The designated staff shall record the date the inspection was performed and the initials of the person performing the inspection. The agency or facility shall keep records of the extinguishers found to require corrective action. In addition to these internal inspections, all fire safety equipment, including extinguishers, shall be inspected annually by the state fire marshal's office or a certified fire safety inspector.

- (l) Resident children/youth and staff shall be trained in emergency preparedness and evacuation procedures.
  - (m) Each facility shall develop designated quality assurance staff whose role will be ongoing monitoring of safety issues. This shall include monitoring of compliance with the current Life Safety Code.
  - (n) All agency pets and animals shall be maintained according to generally accepted veterinary practices for the well-being of the animal and in accordance with pertinent local ordinances, including vaccination.
  - (o) Animals that pose an inherent danger to children/youth (e.g., dogs that are known to be vicious, etc.) shall not be maintained on the property.
  - (p) All residential and foster care facilities, including foster homes, that maintain a private swimming pool must adhere to all pertinent local zoning ordinances and state law, and must provide a barrier in the form of a wall or fence as provided in Section 421.10.1 BOCA National Building Code for Barriers and Fencing for Swimming Pools.
- (11) Vehicle Use and Maintenance
- (a) A written vehicle safety program shall exist at each agency and shall include standards for the safe operation and use of all vehicles used to transport children/youth.
  - (b) The agency shall ensure that all vehicle operators are appropriately licensed and insured.
  - (c) All program vehicles shall be well maintained, and maintenance records kept. Vehicles shall remain locked when not in use. All vehicles used to transport children shall be equipped with a first aid kit and fire extinguisher. Vehicle first aid kits and fire extinguishers shall be inspected at the same intervals as those within the agency's physical plant.
  - (d) All passengers shall wear seat belts or be restrained in an age-appropriate child safety or booster seat.
  - (e) Vehicles shall be operated in accordance with state law.
  - (f) Youth under the age of eighteen (18) may operate agency or personal vehicles according to state law and at the discretion of the agency. Operation of agency vehicles may only be authorized for the purposes of work, health-related appointments, or other independent living related activities.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

#### Rule 0250-04-01-.11 Records Management

- (1) Unless otherwise noted in this Rule or in specific rule chapters for regulated institutions, all agencies will adhere to the following requirements for the compilation, maintenance, storage, and disposition of all agency files and records. Records for foster and prospective adoptive homes shall be maintained in accordance with Rule 0250-04-09.
- (2) Personnel Records

- (a) Agencies shall maintain a system of personnel records for all employees and those volunteers who have direct contact with children/youth.
- (b) Each record shall contain identifying information, a current job description, performance evaluations, and all documents pertaining to performance, including disciplinary actions. Agencies shall develop and retain clear policies or tools surrounding annual performance evaluations and disciplinary action guidelines. Such evaluation policies or tools shall include, at a minimum, an annual evaluation of performance for each level of staff within the agency. These evaluations shall be prepared by the administrator, assistance to the administrator, or the person directly responsible for the supervision of the employee. If not conducted by the administrator, the evaluation shall be approved by the administrator or administrative staff after review by the administrator. Policy shall clearly indicate actions that the agency shall take for failure to receive a satisfactory job performance evaluation during any evaluation period.
- (c) Prior to the employment of contract agency staff, the approval of volunteers, and the approval of foster parents, agencies shall obtain, verify, and maintain in each employee and foster parent file the items listed in subparagraph (d). All background and registry checks shall be run for all known aliases that are not obvious variations of the person's name.
- (d) In addition to other items listed in this rule chapter, each employee file shall contain the following material:
  - 1. An application (copy or original);
  - 2. Three (3) signed, verified letters of reference from unrelated persons, including one previous employer. The agency shall bear the responsibility of verifying all references submitted for employment;
  - 3. Verification of education through official transcript(s), reflecting academic achievement at the level required for the occupied position. This includes those positions requiring a high school degree;
  - 4. Documentation of prior experience;
  - 5. Initial physical examination provided by a licensed health care professional to ensure staff is free from communicable diseases. This examination shall include results of tuberculin screening and any subsequent recommendations for further testing. This provision shall be applicable to all agency staff, including foster parents, and to the adopted or biological children of agency staff who reside onsite with their parents;
  - 6. Agreed upon terms of employment, including signed documents or agreements to agency policies on confidentiality and child abuse reporting;
  - 7. For those staff transporting children/youth, a valid motor vehicle driver's license from the state of residence. The license shall be validated annually;
  - 8. Driving record background documentation;
  - 9. Proof of automobile insurance for anyone who will be transporting children/youth;
  - 10. Documentation of all background vetting as required by this rule chapter; and
  - 11. Emergency contact information.
- (e) All volunteers who have twenty (20) or more hours of direct contact with children/youth, and all persons over the age of eighteen (18) who are not foster parents residing in a foster home, shall undergo the same screening, background checks, and fingerprint-based checks as employees. Results of such screening, background checks, and fingerprint-based checks shall be maintained by the agency and shall be made available to the Department's licensing office upon request.

- (f) Additional information added to employee files throughout the period of employment shall include, as applicable and available:
  - 1. Documentation of pre-service, post-service, and annual training;
  - 2. Updated health cards or reports of physical examinations;
  - 3. Renewed motor vehicle driver's license. This requirement shall also apply to foster parents;
  - 4. Renewed automobile insurance for any staff transporting children/youth. This requirement shall also apply to foster parents;
  - 5. Awards and professional recognition;
  - 6. Records of any disciplinary action taken, including termination summaries;
  - 7. Copies of an annual evaluation of the quality of the work performed by the person;
  - 8. Additional written documentation regarding personnel when agency policies and procedures require its inclusion;
  - 9. Documentation of academic qualifications.
- (g) Records for all staff members and information on applicants for jobs shall be maintained in a locked file at the agency.
- (h) Staff shall have access to their personnel records as afforded to them by applicable law, regulation, or policy.
- (i) Personnel records shall be retained a minimum of five (5) years after the employee's or volunteer's termination or separation date.
- (3) Child/Youth Records
  - (a) The agency shall maintain records on all children/youth served by the agency.
  - (b) The records of children/youth shall include the following items, as available and appropriate:
    - 1. Face sheet with current identifying and pertinent information. This face sheet shall be reviewed for currency on an annual basis and shall be updated any time a significant change in status occurs. The face sheet shall include, at a minimum:
      - (i) Date of admission to agency;
      - (ii) Child/youth's identifying information, including:
        - (I) Name;
        - (II) Date of birth; and
        - (III) A photograph of the child/youth, current to within six (6) months.
      - (iii) Child/youth's physical information, including:
        - (I) Height;
        - (II) Weight;
        - (III) Hair color;

- (IV) Gender;
    - (V) Race; and
    - (VI) Any identifying marks or features.
  - (iv) Child/youth's contact information, including:
    - (I) Address; and
    - (II) Phone number.
  - (v) Child/youth's education information, including:
    - (I) Current school;
    - (II) Address, phone, and contact at current school;
    - (III) Current grade level; and
    - (IV) Any special education certification.
  - (vi) Birth parent or legal guardian information, including:
    - (I) Mother's name, address, and phone number;
    - (II) Father's name, address, and phone number;
    - (III) Status of parental rights of both parents;
    - (IV) Place of employment and phone number for both parents;
    - (V) Legal guardian's name, address, and phone number;
    - (VI) Visitation restrictions; and
    - (VII) Emergency contact name, address, and phone number.
  - (vii) Child/youth's health and medical information, including:
    - (I) Primary physician's name, address, and phone number;
    - (II) Known medical conditions;
    - (III) Diagnoses, including behavioral and emotional diagnoses;
    - (IV) Medication, including type, strength, and dosage; and
    - (V) Any known allergies.
2. A report of each child/youth's initial physical examination, current immunization record, and subsequent records of ongoing care received while at the agency or in an agency foster home including, but not limited to, semiannual dental exams and annual physical exams.
  3. Written permission for the agency staff to obtain emergency medical care signed by the person legally responsible for the child/youth.
  4. Information regarding coverage for the child/youth's medical expenses, insurance, etc.
  5. Intake/Pre-admission screening documentation.

6. Background information on both parents, including physical description, family, social, and health history.
  7. Service plan developed and implemented within thirty (30) days of child/youth entering the care of the agency. The service plan shall be evaluated and updated quarterly.
  8. Written correspondence regarding the case, including personal letters, treatment or discharge discussion, coordination of case management services, and other pertinent case specific documentation.
  9. Legal documents for the child/youth to include any custodial or adjudication orders, no contact orders, social security and birth verification, and any other applicable legal document.
  10. Documentation of the agency's authority to give care including, but not limited to, custodial orders, partial or full guardianship orders, power of attorney, and/or consents.
  11. Narrative record of casework treatment, supervisory visits, conferences, initial visits, monthly visits, and collateral visits. Entries shall be made at least monthly, shall be dated, and shall identify the worker recording the information.
  12. Permanency plans and reports as required by state and federal law.
  13. Verification of age-appropriate child sexual abuse prevention training.
  14. Documentation of the agency's due diligence in obtaining information on the identity of any putative fathers. This part shall only be applicable to records involving adoption services or pregnant youth.
  15. Interstate compact documentation, if applicable.
  16. Documentation of emergency preparedness and emergency evacuation training with signature by age-appropriate children.
  17. Academic records with updates to indicate progress, if applicable.
- (c) Efforts made to gather unavailable information shall be documented.
  - (d) Case records of children/youth shall be retained a minimum of five (5) years after the discharge date or three (3) years after the child/youth reaches the age of eighteen (18), whichever is longer, unless the child/youth was in foster care for more than five (5) years, in full guardianship of the agency, or adopted.
  - (e) Case records of children/youth in foster care for more than five (5) years, or children/youth in guardianship of the agency shall be retained for three (3) years after the youth's eighteenth (18<sup>th</sup>) birthday. Case records for adopted children/youth shall be sealed and maintained in accordance with applicable state law.
  - (f) All records shall be disposed of in a manner that ensures complete destruction of the material.
  - (g) A permanent record shall be maintained regarding length of stay and discharged activity for every child/youth.
  - (h) There shall be a written plan for each child/youth in residential or foster care and records of appropriate foster care reports and administrative and judicial reviews as mandated by state and federal law. Confidentiality of all foster care records shall be maintained and release of records shall be only to those persons with a legitimate purpose related to provision of services to the child/youth or as required by law.

(4) Availability of Records



- (a) All required records shall be made available upon request to any authorized agent of the Department's Office of Child Welfare Licensing, the Department's Office of General Counsel, or any successor office or division.
  - (b) All child records, including computer files and other sensitive material, shall be protected against loss by fire or other natural disaster by storage in double-locked, fire-resistance metal cabinets or an offsite server. Access to this information should be limited to those individuals designated by the agency director.
  - (c) Access to all confidential data stored electronically by any agency or contracted staff shall be password protected and backed up on a separate server or drive.
- (5) Electronic Records Keeping
- (a) All minimum requirements regarding content, retention, confidentiality, and security for records maintained electronically shall be the same as for all other records.
  - (b) The agency shall develop and enforce policies regarding integration and alignment of the management of electronic records with other records and information resources.
  - (c) The agency shall develop and enforce policies that specify the location, manner, and media in which electronic records will be maintained.
  - (d) The agency shall develop and enforce an appropriate level of security to ensure the integrity of data and documents stored on the system.
  - (e) The agency shall develop clearly defined policies that support the retention requirements as detailed in this rule chapter. This shall include policies that ensure the destruction of electronic records in a secure and permanent manner.
  - (f) The agency shall develop and enforce policies that require departing employees and other agents return or destroy, as appropriate, all portable storage media or any other device capable of storing data in the individual's possession that may contain the agency's electronic records. These policies shall also address access through changing of passwords.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

#### Rule 0250-04-01-.12 Provisions for Independent Living Programs

- (1) Independent living programs may include family boarding homes, group care homes, foster homes, or other approved arrangements supervised by in-house staff. These programs will meet compliance with all licensing standards applicable to the licensing category within which the programs are organized.
- (2) Independent living programs whose admissions are limited youth eighteen (18) to twenty-one (21) years of age are exempt from licensing by the Department.
- (3) All residential programs admitting twelve (12) or less minor youth shall adhere to the rules governing Family Boarding Homes or Group Care Homes unless otherwise excepted here.
- (4) The agency shall develop a program statement which includes a description of the program, admission criteria, nature and frequency of supervision, and a provision for periodic goal assessment.
- (5) Agency-operated independent living programs shall provide a level of supervision to ensure that:
  - (a) Youth are being monitored in their program activities;
  - (b) The physical environment is safe; and
  - (c) The health needs of the youth are met.

- (6) Records for youth in independent living programs shall follow the retention guidelines in this rule chapter.
- (7) Independent living programs shall assist youth in their attempts to obtain a high school diploma or GED/HiSET.
- (8) Agency staff shall provide guidance in career exploration, vocational training, job placement, and retention.
- (9) Independent living programs shall train youth in developing daily living skills, including budgeting and financial management skills.
- (10) The agency shall provide personal and emotional support, either directly or through referral to another agency.
- (11) The agency shall work with the youth to focus on preventative health activities such as smoking avoidance, nutrition education, substance abuse, and sexually transmitted disease and pregnancy prevention.
- (12) The agency shall provide counseling to support transitional living goals.
- (13) The agency shall develop and update at least quarterly a transitional living plan for each youth.
- (14) The agency shall, at its discretion, provide youth with transportation to jobsites.
- (15) The agency shall, at its discretion, facilitate youth obtaining a learner's permit or driver's license.
- (16) Independent living programs shall assist youth in accessing available voucher and scholarship information.
- (17) Any agency offering a residential program that accepts minor youth shall ensure that there is no contact or sharing of facilities including, but not limited to, sleeping quarters, common rooms, food service areas, or recreational areas with a supervised independent living program whose admissions are limited to adult residents.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

#### Rule 0250-04-01-.13 Provisions for Maternity Care

- (1) In addition to all services and record keeping provided in this rule chapter, maternity services shall be provided to all pregnant clients admitted to the care of any licensed agency. These services shall include:
  - (a) Intake and case planning, medical and obstetric history, and immunization records;
  - (b) Placement and supervision;
  - (c) Provision of pre- and post-natal services as prescribed and as supervised by a physician or nurse practitioner; and
  - (d) Health education appropriate to the pregnant client's specific needs, including:
    1. Pregnancy and childbirth classes;
    2. Infant and child care;
    3. Drug, alcohol, and tobacco use and abuse;
    4. Family planning and sexual health education;
    5. Healthy relationships;
    6. Teen parenting classes; and

7. Discharge planning, including provision and coordination of aftercare services.
- (2) An intake and case planning study shall be completed by the agency caseworker before a pregnant client is placed in a residential agency or foster home. The study shall include:
- (a) Social history and identifying information which shall include physical description, family background, and health history. This information shall be obtained through interviews and from referral sources.
  - (b) Evaluation of prior history and any presenting problems to determine the services best suited to meet the client's needs.
  - (c) immediate and long-term goals with respect to assistance to be provided to the client and her family, including discharge and coordination of aftercare services.
- (3) The agency shall make reasonable efforts to assist in located the putative biological father as warranted by circumstances.
- (4) The agency shall further offer the following services to the pregnant client and, when appropriate, the biological father:
- (a) A clear definition of the biological father's rights, options, obligations, and responsibilities.
  - (b) A clear definition of the confidential aspects of the services that include the putative father and the child, including rights to access certain information by an adult adoptee.
  - (c) Assistance in making a decision to termination or surrender parental rights and impact of such decisions on the client or putative father and the child; and
  - (d) Post-placement services, as available.
- (5) Clients who wish to surrender their child(ren) for adoption shall be referred to a licensed child-placing agency.
- (6) It shall be the responsibility of the agency to ensure access to appropriate health care services for each pregnant client; to maintain contact with the client for the purpose of assessing complications which may require follow-up medical care; to ensure access to safe and appropriate delivery care; and to implement medical plans, special diets, and other routine procedures as ordered.
- (7) Prenatal care shall include, but is not limited to:
- (a) Transportation to and from medical service facilities and access to a physician or other appropriate health care professional(s);
  - (b) Ultrasound services at intervals recommended by an appropriate medical professional;
  - (c) Labor and delivery; and
  - (d) Pre- and postnatal lactation counseling and care.
- (7) Postnatal care shall include, but is not limited to:
- (a) Appropriate medical and nursing supervision;
  - (b) Postnatal diet approved by the attending physician or other appropriate health care professional;
  - (c) An adequate period for recovery and limited activity as determined by the attending physician or other appropriate health care professional; and

- (d) Post-partum examinations scheduled with the attending physician or other appropriate health care professional.
- (8) Provision shall be made for the continued care of the client and child following childbirth, regardless of placement status.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

Rule 0250-04-01-.14 Requirements and Exceptions for Emergency Shelters

- (1) The general requirements which pertain to the care of children prescribed under all other rule chapters, including Family Boarding Homes, Group Care Homes, Residential Child Care Agencies, and Administrative Standards shall be met, but with the following exceptions:
  - (a) An emergency shelter may exceed its licensed capacity in an emergency situation. The agency may provide sanctuary while plans are made to reduce the number of children to the maximum amount that the agency is licensed to care for. In these cases, the emergency provisions shall not allow for exceeding the maximum capacity of the agency by greater than twenty-five percent (25%) of its licensed capacity for more than seven (7) days within a month. It is essential in all cases that adequate sleeping facilities are provided for all children in the agency.
  - (b) A documented discharge plan shall not be required for children placed in emergency shelters.
  - (c) A pre-evaluation study shall not be required for children admitted to emergency shelter care.
  - (d) Preparation of the child and family or prior placing agency for admission to include pre-placement visits shall not be required for children admitted to emergency shelter care.
  - (e) Development and implementation of a service plan shall not be required for children in emergency shelter care.
  - (f) Periodic evaluation of the family situation shall not be required of families of children in emergency shelter care.
  - (g) Roles and responsibilities of all involved parties shall not be required to be set forth nor is an explanation of the procedures for termination of parental rights required upon emergency placement.
  - (h) Immunization records, written permission for staff to obtain emergency medical care, and information regarding coverage for medical expenses may be waived for emergency shelters.
  - (i) Documentation of school records may be waived for emergency shelter care.
- (2) For children coming into emergency care, an interval health history shall be completed immediately. These children shall have a physical within fifteen (15) working days.
- (3) Identifying information shall be obtained as soon as possible if a child is admitted on an emergency basis.
- (4) If placement exceeds thirty (30) days, the agency shall meet all state and federal law provisions regarding foster care reviews.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

## Chapter 0250-04-05

The Title of the Chapter Standards for Residential Child Caring Agencies is amended by renaming the Chapter “Residential Child Care Agencies.”

Rule 0250-04-05-.01 Legal Basis for Licensing is amended by renaming the section “Definitions” and deleting the text of the rule and substituting instead the following language, so that amended, the rule shall read:

- (1) “Child” means a person under eighteen (18) years of age.
- (2) “Cottage Residence” means a residential setting staffed by houseparents and serving no more than eight (8) children, including the houseparents’ own children.
- (3) “Department” or “DCS” means the Tennessee Department of Children’s Services.
- (4) “Hardware Secure Residential Child Care Agency” means any institution, society, agency, or facility, whether incorporated or not, that meets the definition of residential child care agency set out in 0250-04-05-.01(9) and that has enhanced safety measures that include hardware security, in which construction fixtures are designed to physically restrict the movements and activities of juveniles or other individuals, including, but not limited to, fixed windows, perimeter security fencing and locked doors. Youth placed in the facility have no egress and those outside the facility have no ingress without the appropriate equipment (e.g., keys or key card).
- (5) “Houseparent” means residential staff, consisting of a couple or single staff, who live in a cottage residence with the children twenty-four (24) hours a day, seven (7) days a week. The term may also be applied to support staff who provide temporary residential supervision on an exigent or respite basis in support of assigned houseparents.
- (6) “License” means a yearly permit issued to a residential child care agency providing care to children.
- (7) “Licensing Office” means the Department of Children’s Services Office of Child Welfare Licensing or successor office.
- (8) “Resident Youth” means any person under eighteen (18) years of age residing in a residential child care agency, or under nineteen (19) years of age residing in a hardware secure residential child care agency who has been remanded into state custody for a determinate or indeterminate amount of time by court order.
- (9) “Residential Child Care Agency” means any institution, society, agency, or facility, whether incorporated or not, that either primarily or incidentally provides full time care for thirteen (13) or more children or resident youth as defined in this Rule outside their own homes in facilities owned or rented and operated by the organization. This includes the full-time care of thirteen (13) or more children in (1) one or more buildings on contiguous property with one (1) administrator.
- (10) “Staff” means full-time and part-time employees of a Residential Child Care Agency.
- (11) “Volunteer” means any person providing assistance to the agency without pay who may have contact with resident youth for twenty (20) or more hours a month.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

Rule 0250-04-05-.02 Placement in Temporary Homes or For Adoption is amended by renaming the section "General Requirements" and deleting the text of the rule and substituting instead the following language, so that as amended, the rule shall read:

- (1) The issuance and continuation of a license or approval to operate as a residential child care agency shall depend upon adherence to these standards and the standards contained in Rule 0250-04-01.
- (2) All public or private agencies operating residential child care agencies shall be specifically licensed or approved to exercise this function by the Department.
- (3) Residential child care agencies must be appropriately approved, licensed, permitted, or credentialed by all appropriate agents before residents are admitted, including approval by state or local fire inspectors, health inspectors, and DCS Office of Child Welfare Licensing.
- (4) The facility shall not admit any residents in excess of its licensed capacity except as authorized by Rule 0250-04-05-.04 Requirements and Exceptions for Emergency Shelter Care.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

Rule 0250-04-05-.03 Organization and Administration is amended by renaming the section "Personnel" and deleting the text of the rule and substituting instead the following language, so that as amended, the rule shall read:

- (1) Specific Qualifications for Staff
  - (a) The Executive Director/Administrator
    1. The executive director/administrator is a required position and will be selected by the agency's governing body and be accountable to the governing body for satisfactory performance of duties as described.
    2. The executive director/administrator must be a graduate of an accredited four (4) year college or university, with a preference for a major in the fields of education, medicine, nursing, social work, public administration, or some related field.
    3. If the executive director/administrator is directly responsible for technical supervision of casework staff, he or she will also meet all the qualifications for a casework supervisor/director.
    4. The executive director/administrator will be responsible, either directly or through delegated authority, for the following:
      - i. Attending agency board meetings and participating in all agency planning;
      - ii. Ensuring that the agency keeps accurate records that reflect the complete scope of the agency's operations;
      - iii. Ensuring that annual reports are submitted as requested on forms furnished by the Tennessee Department of Children's Services, as well as any special reports that may be required from time to time;
      - iv. Preparing the agency's budget in cooperation with the agency's board and operating the agency within the budget approved by the board;
      - v. Selecting, employing, training, and discharging all staff and supervising the daily management of the agency unless such responsibilities have been delegated to a qualified staff member;
      - vi. Implementing the policies of the agency's board and bringing to the board's attention those areas that require modification or change;

- vii. Managing community relations;
  - viii. Maintaining adequate records on the administrative and fiscal operation of the agency; and
  - ix. Convening and conducting staff meetings at regular intervals and discussing plans and policies with staff.
5. The executive director shall document for licensing review his or her involvement in all crucial decision-making regarding the direction of the agency, including hiring/termination of staff.

(b) Casework Supervisor/Director

- 1. The casework supervisor/director is a required position and shall have a master's degree in social work and two (2) years experience in the provision of residential services. An equivalent degree in a related human services field including, but not limited to, psychology or guidance and counseling may be substituted for the master's degree in social work. In such cases, three (3) years of experience in residential case management is required. Determination of compliance shall be at the discretion of the Department's licensing office.
- 2. As needed, the agency Executive Director/Administrator may also serve as the casework supervisor/director if requirements for both positions are met.
- 3. The casework supervisor/director will be responsible for administering the casework program and participating in policy development relevant to the program. Both full-time and part-time casework supervisors/directors shall provide weekly supervision and shall be available to staff at all times. This shall be documented for review by licensing staff.
- 4. The casework supervisor/director must participate in placement decisions and shall be accountable to the Executive Director/Administrator or other delegated program administrators.
- 5. Each full-time casework supervisor/director shall supervise no more than eight (8) full-time or equivalent part-time caseworkers.

(c) Caseworker

- 1. The agency is required to maintain a qualified caseworker as a member of its staff or to arrange casework services through written agreement with public or private agencies qualified to provide such services.
- 2. The caseworker must be a graduate of an accredited four (4) year college or university with a major in social work or a related field.
- 3. The ratio of full-time casework staff to residents shall not exceed twenty (20) clients to every one (1) caseworker.
- 4. Case aides and other staff providing casework support will have written job assignments specific to their responsibilities.
- 5. When it is not possible for an agency to employ full-time casework staff, including developing agencies and agencies providing limited services, provision for part time casework staff shall be made in the following manner:
  - i. There shall be ten (10) hours per week of casework services for every eight (8) residents being served.
  - ii. There shall be specific provision for weekly office hours and for emergencies. Part time staff shall meet all the personnel qualifications of full time staff.

(d) Direct Care Staff

1. Direct care staff shall possess the character and capability to provide quality care to residents. Direct care staff must demonstrate the ability to treat each resident with respect, to adequately supervise residents at all times, and to receive instruction and make subsequent and sustained improvement in work performance accordingly.
2. All direct care staff must be at least twenty-one (21) years of age and must hold a high school diploma or other academic certification such as a certificate of high school equivalency (HiSet/GED).
3. The agency shall verify that all direct care staff have previous experience working with youth.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

Rule 0250-04-05-.04 Personnel is amended by renaming the section "Service Provision" and deleting the text of the rule and substituting instead the following language, so that as amended, the rule shall read:

(1) Method of Providing Services

- (a) Each agency shall develop written rules and behavioral guidelines for resident youth admitted to the agency's program. The agency shall provide each resident a copy of these rules and guidelines and shall ensure that each resident understands these requirements. Provisions shall be made for resident youth who have been designated as having Limited English Proficiency (LEP) or who have been diagnosed with a physical or mental impairment as provided in Rule 0250-04-01.
- (b) Children under five (5) years of age must not be admitted into a residential child care agency, with the following exceptions:
  1. Children under five (5) years of age who are admitted with an older sibling or sibling group. These children must live with the sibling group in a cottage residence. In such circumstances, the cottage must have no more than six (6) children, including the houseparents' own children.
  2. Children under five (5) years of age who are admitted into a program with their parent(s). These children will be counted towards an agency's overall capacity and included in the staff to resident ratio.
- (c) There shall be at least one (1) awake direct care staff for every eight (8) resident youth during waking and sleeping hours. Residential child care agencies using cottage residences serving eight (8) or fewer resident youth shall not be required to maintain awake staff during sleeping hours.
- (d) There shall be a minimum of two (2) hours per week of casework service provided for each resident.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

0250-04-05-.05 Staff is amended by renaming the section to "Requirements and Exceptions for Hardware Secure Residential Child Care Agencies" and deleting the text of the rule and substituting instead the following language, so that amended, the rule shall read:

(1) Definitions for the purposes of this section:

- (a) "Administrator" or "Facility Administrator" means the director of the Hardware Secure Residential Child Care Agency.



- (b) "Administrator Designee" means a person authorized by the Facility Administrator to make procedural decisions or to otherwise act on behalf of the Facility Administrator in certain situations.
  - (c) "Chemical Defense Agent" means any product which is dispensed by means of an aerosol spray to control behavior of an individual posing a risk of harm to themselves or to others.
  - (d) "Department" or "DCS" means the Tennessee Department of Children's Services.
  - (e) "Established Curriculum" means a standards-based sequence of instruction designed to achieve proficiency in content and applied learning skills.
  - (f) "Mechanical Restraint" means the use of handcuffs, shackles, or other similar devices.
  - (g) "Physical Restraint" means the use of bodily contact by staff upon a resident youth to restrict the youth's freedom of movement or normal access to their body.
  - (h) "Prone Restraint" means a method of intervention where a person is placed in a face-down position touching any surface for any amount of time and is physically prevented from moving out of this position.
  - (i) "Restrictive Behavior Management" or "RBM" means any use of physical or mechanical restraint, use of chemical defense agents, or use of any form of seclusion as defined in this rule or T.C.A. § 37-5-214.
  - (j) "Seclusion" means any form of involuntary segregation of a child from the rest of the resident population and as defined in T.C.A. § 37-5-214.
  - (k) "Sentinel Event" means any event that results in death, permanent harm, or severe temporary harm of a resident youth.
  - (l) "Staff" means full time and part time employees of a Hardware Secure Residential Child Care Agency.
- (2) General Requirements. The general requirements of this Chapter shall be met by all Hardware Secure Residential Child Care Agencies, in addition to the following requirements and exceptions:
- (a) Hardware Secure Residential Child Care Agencies shall be classified according to the date operations began. Any program which began operation as a Hardware Secure Residential Child Care Agency after January 1, 2023 shall be considered new, while any facilities operating prior to that date shall be considered existing facilities.
  - (b) There shall be written plans, developed in advance, for dealing with emergencies such as escape, medical emergencies, quarantine, disturbances, assaults on staff, hostage taking, and emergency evacuation. These written plans shall be incorporated into the program's operations manual. Each staff member shall be trained on these plans. Training documentation shall be noted in individual employee training records.
  - (c) Any use of restricted behavior management (RBM) practices as defined in paragraph 1 of this section shall comply with all applicable standards established by the agency's policies and procedures; state licensing regulations; Tennessee state law; and the agency's accrediting body. The agency will comply with whichever standard is the least restrictive to the resident youth.
  - (d) Any incident involving the use of RBM shall be documented in a written incident report form provided by the licensing office and retained either in the youth's individual file or in a central file dedicated to documentation of such practices. All applicable sections of the incident report shall be completed in their entirety to demonstrate compliance with licensing regulations and/or state law. Incident reports completed by facility staff to fulfill DCS contractual requirements shall be considered acceptable in meeting compliance with this provision only if the content of the incident report meets the requirements of the form provided by the licensing office. The incident shall be reviewed by the facility administrator or facility administrator's designee prior to the conclusion of

the shift and reported as designated by the department. All incident reports shall be made available for review by the licensing office. Significant incidents include, but need not be limited to, the following:

1. Aggressive behavior (e.g., threats, fights, assaults);
  2. Attempted and/or completed escapes;
  3. Suicidal ideation, threats, and attempts;
  4. Use of physical force by staff;
  5. Use of seclusion;
  6. Use of mechanical restraints for reasons other than transportation;
  7. Use of chemical defense agents;
  8. Sentinel events;
  9. Other serious events, including, but not limited to:
    - i. Incidents involving multiple youth, such as youth assaulting staff member(s) or rioting;
    - ii. Runaway incidents lasting over twelve (12) hours;
    - iii. Investigation of facility operations or personnel by federal, state, or local law enforcement; and
    - iv. Mandatory reporting to the Child Abuse Hotline by facility staff regarding any incident occurring within the facility or involving resident youth or staff.
- (e) The following physical and/or mechanical restraint practices are prohibited in all Hardware Secure Residential Child Care Agencies:
1. Four-point restraints, including body wraps, restraint beds, and restraint chairs;
  2. Mechanically restraining youth to a fixed object except for temporary, short-term use for security during classification or preparation for transportation;
  3. Possession or use of tasers and related "less lethal" designated equipment, with the exception of trained law enforcement personnel. Possession or use of such equipment by facility staff other than law enforcement personnel may result in immediate adverse licensing action;
  4. Chemical restraint. Chemical restraint means the use of any psychoactive medication, prescribed or otherwise, as a de facto restraint for the purpose of controlling a youth's behavior or to restrict a youth's freedom of movement beyond the scope and frequency of prescribed treatment for a youth's medical or psychiatric condition. Use of chemical restraint as provided in this rule shall provide grounds for adverse licensing action;
  5. Restricting respiration in any way, such as applying a chokehold or pressure to a youth's back or chest or placing a youth in a position that is capable of causing positional asphyxia;
  6. Using any method that is capable of causing loss of consciousness or harm to the neck;
  7. Pinning down with knees to torso, head, and/or neck;
  8. Prone restraint;

9. Using pressure point, pain compliance, and joint manipulation techniques, other than an approved method for release of a chokehold, bite, or hair pull;
  10. Modifying restraint equipment or applying any cuffing technique that connects handcuffs behind the back to ankle restraints;
  11. Lifting a youth's arms behind the back, while in mechanical restraints, in a manner that is capable of causing injury to the shoulder;
  12. Using other youth or untrained staff to assist with the restraint; and
  13. Securing a youth to another youth.
- (f) There shall be at least one (1) direct care staff for every eight (8) resident youth during waking hours and at least one (1) awake direct care staff for every sixteen (16) resident youth during sleeping hours.
- (g) In addition to similarly established provisions in this chapter, each Hardware Secure Residential Child Care Agency shall ensure the following topics are included in staff development:
1. Hostage policy;
  2. Crisis Management/Emergency Planning;
  3. Use of Restrictive Behavior Management, including approved physical restraint techniques, chemical defense agents and mechanical restraint, use of seclusion as previously defined, what staff is designated to authorize the use of any RBM practice, and how to obtain such authorization;
  4. Security procedures;
  5. Behavioral observation and recording, including assessment of physical and emotional well-being during the use of RBM practices;
  6. An established curriculum around the effective use of verbal de-escalation techniques;
  7. Federal mandates, including PREA and Title VI; and
  8. All local policy and procedure associated with the facility.
- (h) All staff members who are designated to authorize and/or use RBM shall receive basic and ongoing annual in-service training to ensure local practice meets current and acceptable guidelines established by accrediting bodies, licensing regulations, and state law. All such training shall be recorded with the dates completed and maintained in the staff member's personnel file.
- (i) Requirements regarding the use of volunteers in hardware secure residential settings shall adhere to the provisions established in Chapter 0250-04-01.
- (j) Documentation related to incidents included in provisions of the Prison Rape Elimination Act (PREA) should be maintained in accordance with those standards and be made available for review by licensing staff, accrediting bodies, and entities charged with certifying PREA compliance.
- (k) The facility shall visually count resident youth and record the results at the beginning and end of each shift change.
- (l) The following minimum provisions for physical plant shall apply to each Hardware Secure Residential Child Care Agency:

1. Sleeping areas shall be free from hazardous conditions that would facilitate suicide attempts or self-harm.
2. All sleeping and activity areas shall have lighting of at least twenty (20) foot-candles to be measured three (3) feet off the floor. These measurements shall be taken and documented by an independent source, such as the state or local fire marshal, and shall be retested at least every three (3) years.
3. New and existing facilities shall have forced air ventilation in all sleeping and activity areas.
4. Access to natural light shall be present in all sleeping areas.
5. A temperature between sixty-five (65) degrees Fahrenheit and eighty (80) degrees Fahrenheit shall be maintained in sleeping and activity areas.
6. The minimum size of a single sleeping room shall be fifty (50) square feet of unencumbered floor space with a ceiling height of not less than eight (8) feet. All dimensions of room length and width for both single and multiple occupancy rooms shall allow for a reasonable amount of useable floor space for any in-room activities of resident youth and one wall measurement shall be at least seven (7) feet. Any issues pertaining to sufficiency of room dimensions shall be determined by the Department's licensing office. Each room shall contain a bunk, a toilet, and a sink/washbasin.
7. Sleeping rooms shall not be designed to accommodate more than eight (8) resident youth. A minimum of thirty-five (35) square feet of unencumbered floor space for each youth shall be provided in such sleeping areas, with a ceiling height of not less than eight (8) feet. One wall measurement shall be at least seven (7) feet.
8. Operable toilets and washbasins shall be provided to resident youth at a ratio of at least one (1) toilet and washbasin to every eight (8) resident youth and one (1) toilet and washbasin accessible to the occupant of a single occupancy room without the occupant having to leave the room.
9. Operable showers shall be provided to resident youth at a ratio of at least one (1) shower to every sixteen (16) resident youth and shall be accessible to youth without having to leave their designated area.
10. A secure outdoor recreation area shall be provided with dimensions of at least thirty (30) feet by thirty (30) feet or an indoor recreation area of the same dimensions which has access to natural light.
11. There shall be a secure control center, staffed continuously, through which telephone and other communications are channeled. The location of the control center shall provide line of sight visibility or be equipped with a monitoring device. The control center shall monitor the operation of security and life safety systems.
12. Drinking fountains with potable water shall be located in all sleeping and activity areas of new facilities. In existing facilities, if the water from washbasins is potable, it shall not be necessary to add drinking fountains, but sanitary drinking cups shall be made available.
13. Programs using electric locks shall also ensure that those locks may be opened manually.
14. All glass in the facility (windows, vision panels, etc.) shall be made of a mar-resistant polycarbonate laminate.

Authority: T.C.A. §§ 37-5-105; 37-5-107; 37-5-214; 37-5-501, et. seq.

0250-04-05-.06 Service Provision is amended by deleting the text of the rule entirely.

Authority: T.C.A. §§ 4-5-201, et. seq.; 37-5-105; 37-5-106; and 37-5-501, et. seq.

0250-04-05-.07 Care of the Children is amended by deleting the text of the rule entirely.

Authority: T.C.A. §§ 4-5-201, et. seq.; 37-5-105; 37-5-106; and 37-5-501, et. seq.

0250-04-05-.08 Parental Involvement is amended by deleting the text of the rule entirely.

Authority: T.C.A. §§ 4-5-201, et. seq.; 37-5-105; 37-5-106; and 37-5-501, et. seq.

0250-04-05-.09 Physical Facilities is amended by deleting the text of the rule entirely.

Authority: T.C.A. §§ 4-5-201, et. seq.; 37-5-105; 37-5-106; and 37-5-501, et. seq.

0250-04-05-.10 Records and Reports is amended by deleting the text of the rule entirely.

Authority: T.C.A. §§ 4-5-201, et. seq.; 37-5-105; 37-5-106; and 37-5-501, et. seq.

0250-04-05-.11 Requirements for Wilderness Camps is amended by deleting the text of the rule entirely.

Authority: T.C.A. §§ 4-5-201, et. seq.; 37-5-105; 37-5-106; and 37-5-501, et. seq.

0250-04-06-.12 Requirements for Emergency Shelter Care is amended by deleting the text of the rule entirely.

Authority: T.C.A. §§ 4-5-201, et. seq.; 37-5-105; 37-5-106; and 37-5-501, et. seq.

0250-04-05-.13 Appendices is amended by deleting the text of the rule entirely.

Authority: T.C.A. §§ 4-5-201, et. seq.; 37-5-105; 37-5-106; and 37-5-501, et. seq.

## NEW RULE CHAPTER AND NUMBER

Chapter 0250-04-06, Standards for Nontraditional Child Care Agencies, is added as a new Rule Chapter within the Rules of the Tennessee Department of Children's Services such that the new Rule Chapter shall read:

### RULES OF THE TENNESSEE DEPARTMENT OF CHILDREN'S SERVICES

#### CHAPTER 0250-04-06

##### Standards for Nontraditional Child Care Agencies

0250-04-06-.01 Definitions

0250-04-06-.02 General Requirements

0250-04-06-.03 Personnel

0250-04-06-.04 Procedures for Nontraditional Child  
Care Agencies

0250-04-06-.05 Minimum Identification Requirements Form

#### Rule 0250-04-06-.01 Definitions

- (1) "Interstate Compact for Juveniles" or "ICJ" means the law established at T.C.A. §§ 37-4-101, et. seq. that regulates the placement of children across state lines who are on probation or parole or have runaway to another state.
- (2) "Interstate Compact for the Placement of Children" or "ICPC" means the law established at T.C.A. §§ 37-4-201, et. seq. that regulates the placement of children across state lines.
- (3) "Licensing Office" means the Department of Children's Services Office of Child Welfare Licensing or successor office.
- (4) "Nontraditional child care agency" means a child care agency that provides residential child care for one (1) or more children who must be transported across state lines to enter or leave the agency's care and whose transport is not subject to ICPC or ICJ, but does not include a person or entity that places children in family boarding homes or foster homes.
- (5) "Resident" or "Residents" means a person under eighteen (18) years of age placed in a nontraditional child care agency.
- (6) "Residential child care" means the provision of supervision or protection, and meeting the basic needs of a child for twenty-four (24) hours per day.

Authority: T.C.A. §§ 37-4-101, et. seq.; 37-4-201, et. seq.; 37-5-105; 37-5-106; and 37-5-501, et. seq.

#### Rule 0250-04-06-.02 General Requirements

- (1) The issuance and continuation of a license or approval to operate as a nontraditional child care agency shall depend upon adherence to these standards.
- (2) All public or private agencies operating nontraditional child care agencies shall be specifically licensed or approved to exercise this function by the Department.
- (3) Nontraditional child care agencies shall comply with local and state building, fire, environmental, health, and safety laws and regulations, and be approved by the DCS Licensing Office as a nontraditional child care agency before residents can be admitted.
- (4) A nontraditional child care agency shall not admit any residents in excess of its licensed capacity. Under no circumstances shall any nontraditional child care agency admit more than twenty-five (25) unique residents in a one (1) year period who were transported across state lines to enter the agency's care, and whose transport was not subject to ICPC or ICJ.
- (5) The nontraditional child care agency shall not engage in practices that exploit the rights of the residents in their care. Residents shall not be identified in connection with fundraising activities or publicity for the agency without written permission from the resident and the resident's parent or legal custodian.

- (6) The nontraditional child care agency shall provide each resident with a clear definition of their rights, obligations, and responsibilities, including confidential aspects of their placement. Residents must be assisted in understanding their rights. The agency shall ensure that any resident who is unable to read, has limited reading proficiency, or who is designated as having Limited English Proficiency (LEP) has been made aware of these requirements in a manner that ensure comprehension by the resident.
- (7) All nontraditional child care agencies shall keep accurate records which reflect the scope of the agency's operations, information about the population served, and documented compliance with state and local ordinances and regulations.
- (8) A license to operate a nontraditional child care agency shall be posted onsite in a visible area.
- (9) In addition to the annual licensing evaluation, all non-traditional child care agencies shall submit to inspection at least twice per year, without previous notice, by the licensing office.
- (10) Each nontraditional child care agency shall include in its annual report to the department's licensing office:
  - (a) The number of children who have been under the agency's care during the license period;
  - (b) The number of children adopted or for whom care has been transferred to an individual or entity during the license period;
  - (c) The state and county where the children were adopted or transferred to or from;
  - (d) The average length of stay of the children with the agency; and
  - (e) The amount in grants and public funds received by the agency from federal, state, and local governments.
- (11) Application for a license to operate a nontraditional child care agency shall be made in writing to the department in a manner that the department determines and must be accompanied by the appropriate fee set forth in subsection (13) of this Rule.
- (12) Any entity applying for a license as a nontraditional child care agency shall obtain liability insurance of no less than two million dollars (\$2,000,000.00). This insurance must be obtained prior to the issuance of a temporary or annual license. Documentation related to the maintenance of liability insurance shall be reviewed by the licensing office annually.
- (13) A nontraditional child care agency shall pay an application fee of twenty five dollars (\$25.00). Additionally, the agency shall pay a fee of one hundred dollars (\$100.00) per child that the agency is licensed to care for during the licensure period as a nontraditional child care agency.
- (14) On or after July 1, 2022, an applicant seeking a license as a nontraditional child care agency, including renewal of an existing license, shall:
  - (a) Demonstrate compliance with the minimum evidentiary requirements for licensure required by this Rule; Chapters 0250-04-01, 0250-04-02, 0250-04-05, and 0250-04-09, as applicable; and statute;
  - (b) Provide information regarding other entities operated by the applicant; and
  - (c) Disclose all contracts and agreements, including contract or agreement amendments, with third parties through which the applicant intends to provide placement, housing, or care services for children in this state.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

Rule 0250-04-06-.03 Personnel

- (1) Specific Qualifications for Staff

(a) The Executive Director/Administrator

1. The executive director/administrator is a required position and shall be selected by the agency's governing body and be accountable to the governing body for satisfactory performance of duties as described.
2. The executive director/administrator shall be a graduate of an accredited four (4) year college or university, with a preference for a major in the fields of education, medicine, nursing, social work, public administration, or some related profession.
3. If the executive director/administrator is directly responsible for technical supervision of casework staff, he or she shall also meet all the qualifications for a casework supervisor/director.
4. The executive director/administrator shall be responsible, either directly or through delegated authority, for the following:
  - i. Attending agency board meetings and participating in all agency planning;
  - ii. Ensuring that the agency keeps accurate records that reflect the complete scope of the agency's operations;
  - iii. Ensuring that annual reports are submitted as requested on forms furnished by the Tennessee Department of Children's Services, as well as any special reports that may be required from time to time;
  - iv. Preparing the agency's budget in cooperation with the agency's board and operating the agency within the budget approved by the board;
  - v. Selecting, employing, training, and discharging all staff and supervising the daily management of the agency unless such responsibilities have been delegated to a qualified staff member;
  - vi. Implementing the policies of the agency's board and bringing to the board's attention those areas that require modification or change;
  - vii. Interpreting/promoting the agency's operations to the community;
  - viii. Maintaining adequate records on the administrative and fiscal operation of the agency; and
  - ix. Convening and conducting staff meetings at regular intervals and discussing plans and policies with his/her staff.
5. Involvement of the executive director/administrator in all crucial decision-making regarding the direction of the agency and including hiring/termination of staff shall be documented for review by the department.

(b) Casework Supervisor/Director

1. The casework supervisor/director is a required position and shall have a master's degree in social work and two (2) years experience in the provision of foster care or adoption services. An equivalent degree in a related human services field including, but not limited to, psychology or guidance and counseling may be substituted for the master's degree in social work. In such cases, three (3) years of experience in foster care case management or adoption related services is required. Determination of compliance shall be at the discretion of the Department's licensing division.
2. As needed, the agency director may also serve as the casework supervisor/director if requirements for both positions are met.



3. The casework supervisor/director shall be responsible for administering the casework program and participating in policy development relevant to the program. The casework supervisor/director shall review and sign all home studies completed by assigned staff. Both full and part-time casework supervisors/directors shall provide weekly supervision and shall be available to staff at all times. This shall be documented for review by licensing staff.
4. The casework supervisor/director shall participate in placement decisions and shall be accountable to the Executive Director/Administrator or other delegated program administrators.
5. Each full-time casework supervisor/director shall supervise no more than eight (8) full-time or equivalent part-time caseworkers.

(c) Caseworker

1. The agency is required to maintain at least one qualified caseworker as a member of its staff or to arrange casework services through written agreement with public or private agencies qualified to provide such services.
2. Any caseworker shall be a graduate of an accredited four (4) year college or university with a major in social work or a related field.
3. If there is only one (1) caseworker, he or she shall also meet the qualifications of the casework supervisor/director.
4. The ratio of full-time casework staff to residents shall not exceed twenty (20) clients for every one (1) caseworker. This does not apply to adoption-related services.
5. Case aides and other staff providing casework support shall have written job assignments specific to their responsibilities.

(d) Direct Care Staff

1. Direct care staff shall possess the character and capability to provide quality care to residents. Direct care staff shall demonstrate the ability to treat each resident with respect, to adequately supervise residents at all times, and to receive instruction and make subsequent and sustained improvement in work performance accordingly.
2. All direct care staff must be at least twenty-one (21) years of age and must hold a high school diploma or other academic certification such as a certificate of high school equivalency (HiSet/GED).

(2) Staff Development

- (a) All staff shall successfully complete a minimum of thirty (30) hours of orientation and training before assuming responsibility for residents. Exceptions may be made for those staff not involved in direct care.
- (b) Training shall be under the supervision of qualified staff. Training shall include, but is not limited to, the following:
  1. Agency philosophy, policies, and procedures;
  2. Procedures to ensure confidentiality;
  3. Child abuse prevention, detection, and reporting procedures;
  4. First Aid/CPR training;
  5. Fire Safety;

6. Disaster and Emergency Preparedness Training/Evacuation procedures;
  7. Universal precautions;
  8. Physical restraint techniques, if these techniques are authorized at the agency;
  9. CPR (adult, child, and infant);
  10. Behavior management;
  11. Crisis Intervention/De-escalation techniques;
  12. Cultural diversity training;
  13. Medication administration (for those staff administering medication);
  14. Commercial Sexual Exploitation of Children (CSEC);
  15. Mandated reporter training; and
  16. Caring for children with a history of abuse, neglect, or sexual trauma.
- (c) A program of related training must be developed which requires all professional and direct care staff a minimum of fifteen (15) hours training annually. Exceptions may be made for those staff not involved in the direct care of children/youth. Attendance at conferences and workshops may be included as part of the fifteen (15) hours minimum requirement. Participation in these activities must be documented in the staff personnel files.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

Rule 0250-04-06-.04 Procedures for Nontraditional Child Care Agencies

- (1) Within seventy-two (72) hours of beginning to provide care for a child who was transported across state lines to enter the agency's care and whose transport across state lines was not subject to ICPC or ICJ, a nontraditional child care agency shall:
- (a) Prepare a file containing minimal identification requirements of the child. The file must contain, at a minimum, the child's:
    1. Name;
    2. Sex;
    3. Date of birth;
    4. Height and weight;
    5. Verifiable identifiers, if any;
    6. Photograph;
    7. Fingerprint sample;
    8. Dental record or copy of the child's birth certificate;
    9. List of relatives, if known, and their contact information; and
    10. Immunization record; and
  - (b) Submit a copy of the file to the department's licensing office on the form contained in this Rule.

- (2) At least ten (10) days prior to the transport of a child who was transported across state lines to enter the agency's case and whose transport was not subject to ICPC or ICJ from the care of the agency to the care of an individual or entity, the nontraditional child care agency shall:
- (a) Notify the department's licensing office that the child will be transported; and
  - (b) Provide the department's licensing office with the following information:
    - 1. Child's name;
    - 2. Child's sex;
    - 3. Child's date of birth;
    - 4. Type of identified placement (e.g. relative/kinship caregiver, residential placement, foster care, adoptive placement);
    - 5. Name and title of primary contact at identified placement;
    - 6. Address and phone number of identified placement;
    - 7. Custodial disposition of child at time of transfer; and
    - 8. Any reunification goals established by the nontraditional child care agency.
- (3) If the department determines that a nontraditional child care agency has violated subsection (1) or (2) of this Rule, then the department may revoke the agency's license in accordance with 0250-04-01-.03 and statute.

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

Rule 0250-04-06-.05 Minimum Identification Requirements Form

- (1) This form shall be completed pursuant to T.C.A. § 37-5-520 within seventy-two (72) hours of a nontraditional child care agency's beginning to provide care for any child who was transported across state lines to enter the agency's care and whose transport across state lines was not subject to ICPC or ICJ. The completed form must be provided to the department's licensing office.
- (2) Form:

### TENNESSEE DEPARTMENT OF CHILDREN'S SERVICES

#### MINIMUM IDENTIFICATION REQUIREMENTS FORM FOR A CHILD TRANSPORTED ACROSS STATE LINES FOR PLACEMENT AT A NONTRADITIONAL CHILD CARE AGENCY

##### IDENTIFYING INFORMATION OF CHILD

Full Name	
Date of Birth	
Sex	
Height	
Weight	
Unique Identifiers (tattoos, scars, etc.)	

**ALL KNOWN RELATIVES AND CONTACT INFORMATION (Use an additional sheet, if necessary)**

RELATIVE NAME	RELATIONSHIP	CONTACT INFORMATION

The following documentation is required to accompany this form. Please check each box to verify that the information is attached and submit the information, with this form, to the licensing office.

- ☐ Current photograph of Child
- ☐ Fingerprint sample of Child
- ☐ Immunization record of Child
- ☐ Child's birth certificate OR dental record

I verify that this information is accurate to best of my information and belief.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title of Individual Completing Form

\_\_\_\_\_  
Agency

Authority: T.C.A. §§ 37-5-105; 37-5-106; and 37-5-501, et. seq.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: May 1, 2023

Signature: \_\_\_\_\_



Name of Officer: James Layman

Title of Officer: Legislative Director


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Tre Hargett  
Secretary of State

**RULES  
OF  
TENNESSEE DEPARTMENT OF CHILDREN'S SERVICES  
LEGAL DIVISION**

**CHAPTER 0250-04-05  
STANDARDS FOR RESIDENTIAL CHILD CARING CARE AGENCIES**

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**0250-04-05-.01 LEGAL BASIS FOR LICENSING DEFINITIONS.**

- (1) "Child" means a person under eighteen (18) years of age.
- (2) "Cottage Residence" means a residential setting staffed by houseparents and serving no more than eight (8) children, including the houseparents' own children.
- (3) "Department" or "DCS" means the Tennessee Department of Children's Services.
- (4) "Hardware Secure Residential Child Care Agency" means any institution, society, agency, or facility, whether incorporated or not, that meets the definition of residential child care agency set out in 0250-04-05-.01(9) and that has enhanced safety measures that include hardware security, in which construction fixtures are designed to physically restrict the movements and activities of juveniles or other individuals, including, but not limited to, fixed windows, perimeter security fencing and locked doors. Youth placed in the facility have no egress and those outside the facility have no ingress without the appropriate equipment (e.g., keys or key card).
- (5) "Houseparent" means residential staff, consisting of a couple or single staff, who live in a cottage residence with the children twenty-four (24) hours a day, seven (7) days a week. The term may also be applied to support staff who provide temporary residential supervision on an exigent or respite basis in support of assigned houseparents.
- (6) "License" means a yearly permit issued to a residential child care agency providing care to children.
- (7) "Licensing Office" means the Department of Children's Services Office of Child Welfare Licensing or successor office.
- (8) "Resident Youth" means any person under eighteen (18) years of age residing in a residential child care agency, or under nineteen (19) years of age residing in a hardware secure residential child care agency who has been remanded into state custody for a determinate or indeterminate amount of time by court order.
- (9) "Residential Child Care Agency" means any institution, society, agency, or facility, whether incorporated or not, that either primarily or incidentally provides full time care for thirteen (13) or more children or resident youth as defined in this Rule outside their own homes in facilities owned or rented and operated by the organization. This includes the full-time care of thirteen (13) or more children in (1) one or more buildings on contiguous property with one (1) administrator.
- (10) "Staff" means full-time and part-time employees of a Residential Child Care Agency.

(11) "Volunteer" means any person providing assistance to the agency without pay who may have contact with resident youth for twenty (20) or more hours a month.

~~(1) GENERAL: The legal basis for licensing is contained in T.C.A. §§ 14-10-101 through 14-10-130.~~

~~(2) DEFINITIONS: For the purpose of this chapter, the following terms have the following meanings:~~

~~— (a) Child — A person under seventeen (17) years of age.~~

~~— (b) Commissioner — The Commissioner of the Department of Children's Services.~~

~~— (c) Department — The Tennessee Department of Children's Services.~~

~~(d) Emergency Shelter Care — Care available on a 24 hour basis. Its purpose is to provide care for children in emergency cases. The length of care should not extend beyond 30 days. In rare instances where longer care is required, the reason should be documented in the case record. Length of care must not extend beyond 90 days in any case.~~

~~(e) Law — Tennessee Code Annotated, Sections 14-10-101 through 14-10-130.~~

~~(f) License — A yearly permit issued to a residential child-caring agency giving care to children. Licensing is based on meeting required standards developed and published by the Department.~~

~~(g) Residential Child-Caring Agency — (defined as "Child-Caring Institution" in the law). Any institution, society, agency, or facility, whether incorporated or not, which either primarily or incidentally provides full time care for thirteen (13) or more children under seventeen (17) years of age outside their own homes in facilities owned or rented and operated by the organization. For licensing purposes the definition is further expanded to mean the full time care of thirteen (13) or more children in one or more buildings on contiguous property with one administrator.~~

~~(h) Staff — Full time and part time employees of a Residential Child-Caring Agency.~~

~~(i) Wilderness Camp — A facility which provides a primitive camping program with a non-punitive environment and an experience curriculum for children twelve (12) years of age and older, who have difficulty functioning in the home, school or community.~~

~~(3) BASIS FOR APPROVAL FOR LICENSE: The provisions of T.C.A. § 14-10-104 are applicable.~~

~~(4) LICENSING PROCEDURE:~~

~~(a) Application Fees. The provisions of T.C.A. § 14-10-106(a) as amended by Public Chapter 536, "Acts of 1986" are applicable.~~

~~(b) Re-application After Denial or Revocation. The provisions of T.C.A. § 14-10-106(b), as amended by Public Chapter 526, "Acts of 1986", are applicable.~~

~~(c) Temporary License. The provisions of T.C.A. § 14-10-107 are applicable.~~

~~(d) Hearing on Denial of Application. The provisions of T.C.A. § 14-10-108, as amended by Public Chapter 536, "Acts of 1986", are applicable.~~

~~(e) Revocation of License; Emergency Suspension. The provisions of T.C.A. § 14-10-109, as amended by Public Chapter 536, "Acts of 1986", are applicable. If the Department finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of the license will be ordered pending revocation proceedings, as provided in T.C.A. § 4-5-320(c).~~

~~(f) Penalty for Unlicensed Operation. The provisions of T.C.A. § 14-10-113 are applicable.~~

~~(g) Inspection of Licensed Agencies. The provisions of T.C.A. § 14-10-119 are applicable.~~

- (h) ~~Reports of Child Abuse.~~ The provisions of T.C.A. § 14-10-130 are applicable.
- (5) ~~PUBLIC AGENCIES: INSPECTION AND REPORT.~~ The provisions of T.C.A. § 14-10-118 are applicable.
- (6) ~~FOSTER CARE REQUIREMENTS~~
- (a) ~~State law, codified as T.C.A. §§ 14-10-124 and 37-2-401 through 37-2-411, requires the development of plans for each child in foster care including long-term agreements, establishes procedures for periodic review of such plans, and establishes review boards in each county. Amendments to the Licensing Law in 1978 establish a method for periodic review of foster care custody that will provide for termination or continuation of custody in accordance with the findings of the review. A plan must be submitted on each child in foster care placement within 30 days of the original date the child has been placed in foster care. This is to be submitted regardless of whether the child is in care by court order or voluntary placement agreement. The plan is to be submitted to the Juvenile Court having jurisdiction over the child. Every six months thereafter a report is to be submitted to the court or foster care review board enumerating progress or lack of progress made towards the goals on the original plan. Each plan must be submitted, reevaluated and updated annually. Every eighteen months (or at least every 36 months if rights of both parents have been surrendered or terminated), the judge or referee must hold a hearing to consider the continued need for foster care and progress of same.~~
- (b) ~~Compliance with all foster care requirements of State law is a licensing requirement, and non-compliance may be grounds for licensing revocation.~~
- (7) ~~REPORTING OF BRUTALITY, ABUSE, NEGLECT OR CHILD SEXUAL ABUSE.~~ The provisions of T.C.A. § 37-1-403 are applicable.
- (8) ~~VIOLATIONS; PENALTIES.~~ The provisions of T.C.A. § 37-1-615 are applicable.

**Authority:** T.C.A. §§ 4-5-226(b)(2); 14-10-101, 14-10-104, 14-10-106 through 14-10-110, 14-10-113, 14-10-118, 14-10-119, 14-10-124, 14-10-130, 37-1-615; 37-2-401 through 37-2-411; 37-5-101; 37-5-105; 37-5-106; **and 37-5-501, et. seq.** 37-5-112(a) and P.C. 536, "Acts of 1986". **Administrative History:** Original rule certified June 10, 1974, Repeal and new rule filed April 4, 1979, effective May 21, 1979. Amendment filed March 6, 1980; effective April 20, 1980. Repeal and new rule filed December 30, effective February 13, 1987. Rule assigned a new control number, removed and renumbered from 1240-4-5-.01 filed and effective March 25, 1999.

## **0250-04-05-.02 PLACEMENT IN TEMPORARY HOMES OR FOR ADOPTION GENERAL REQUIREMENTS**

- (1) The issuance and continuation of a license or approval to operate as a residential child care agency shall depend upon adherence to these standards and the standards contained in Rule 0250-04-01.
- (2) All public or private agencies operating residential child care agencies shall be specifically licensed or approved to exercise this function by the Department.
- (3) Residential child care agencies must be appropriately approved, licensed, permitted, or credentialed by all appropriate agents before residents are admitted, including approval by state or local fire inspectors, health inspectors, and DCS Office of Child Welfare Licensing.
- (4) The facility shall not admit any residents in excess of its licensed capacity except as authorized by Rule 0250-04-05-.04 Requirements and Exceptions for Emergency Shelter Care.
- (1) ~~All public or private institutions placing children in temporary foster homes or for adoption must be specifically licensed or approved to exercise this function by the Tennessee Department of Children's Services.~~
- (2) ~~The standards set up by the Tennessee Department of Children's Services with reference to the placement of children must be adhered to in all respects by agencies so licensed.~~
- (3) ~~All public agencies placing children in temporary foster homes or for adoption must meet the standards of private, licensed, child-placing agencies.~~

**Authority:** T.C.A. §§ ~~4-5-226(b)(2); 14-10-104; 14-10-116; 37-5-101; 37-5-105; 37-5-106; and 37-5-501~~, *et. seq.* ~~37-5-112(a)~~. **Administrative History:** Original rule certified June 10, 1974, Repeal and new rule filed April 4, 1979, effective May 21, 1979. Amendment filed March 6, 1980; effective April 20, 1980. Repeal and new rule filed December 30, effective February 13, 1987. Rule assigned a new control number, removed and renumbered from 1240-4-5-.01 filed and effective March 25, 1999.

### **0250-04-05-.03 ORGANIZATION AND ADMINISTRATION PERSONNEL**

#### **(1) Specific Qualifications for Staff**

##### **(a) The Executive Director/Administrator**

1. The executive director/administrator is a required position and will be selected by the agency's governing body and be accountable to the governing body for satisfactory performance of duties as described.
2. The executive director/administrator must be a graduate of an accredited four (4) year college or university, with a preference for a major in the fields of education, medicine, nursing, social work, public administration, or some related field.
3. If the executive director/administrator is directly responsible for technical supervision of casework staff, he or she will also meet all the qualifications for a casework supervisor/director.
4. The executive director/administrator will be responsible, either directly or through delegated authority, for the following:
  - i. Attending agency board meetings and participating in all agency planning;
  - ii. Ensuring that the agency keeps accurate records that reflect the complete scope of the agency's operations;
  - iii. Ensuring that annual reports are submitted as requested on forms furnished by the Tennessee Department of Children's Services, as well as any special reports that may be required from time to time;
  - iv. Preparing the agency's budget in cooperation with the agency's board and operating the agency within the budget approved by the board;
  - v. Selecting, employing, training, and discharging all staff and supervising the daily management of the agency unless such responsibilities have been delegated to a qualified staff member;
  - vi. Implementing the policies of the agency's board and bringing to the board's attention those areas that require modification or change;
  - vii. Managing community relations;
  - viii. Maintaining adequate records on the administrative and fiscal operation of the agency; and
  - ix. Convening and conducting staff meetings at regular intervals and discussing plans and policies with staff.
5. The executive director shall document for licensing review his or her involvement in all crucial decision-making regarding the direction of the agency, including hiring/termination of staff.

##### **(b) Casework Supervisor/Director**



1. The casework supervisor/director is a required position and shall have a master's degree in social work and two (2) years experience in the provision of foster care or adoption services. An equivalent degree in a related human services field including, but not limited to, psychology or guidance and counseling may be substituted for the master's degree in social work. In such cases, three (3) years of experience in foster care case management or adoption related services is required. Determination of compliance shall be at the discretion of the Department's licensing office.
2. As needed, the agency Executive Director/Administrator may also serve as the casework supervisor/director if requirements for both positions are met.
3. The casework supervisor/director will be responsible for administering the casework program and participating in policy development relevant to the program. Both full-time and part-time casework supervisors/directors shall provide weekly supervision and shall be available to staff at all times. This shall be documented for review by licensing staff.
4. The casework supervisor/director must participate in placement decisions and shall be accountable to the Executive Director/Administrator or other delegated program administrators.
5. Each full-time casework supervisor/director shall supervise no more than eight (8) full-time or equivalent part-time caseworkers.

(c) Caseworker

1. The agency is required to maintain a qualified caseworker as a member of its staff or to arrange casework services through written agreement with public or private agencies qualified to provide such services.
2. The caseworker must be a graduate of an accredited four (4) year college or university with a major in social work or a related field.
3. The ratio of full-time casework staff to residents shall not exceed twenty (20) clients to every one (1) caseworker. This does not apply to adoption-related services.
4. Case aides and other staff providing casework support will have written job assignments specific to their responsibilities.
5. When it is not possible for an agency to employ full-time casework staff, including developing agencies and agencies providing limited services, provision for part time casework staff shall be made in the following manner:
  - i. There shall be ten (10) hours per week of casework services for every eight (8) residents being served.
  - ii. There shall be specific provision for weekly office hours and for emergencies. Part time staff shall meet all the personnel qualifications of full time staff.

(d) Direct Care Staff

1. Direct care staff shall possess the character and capability to provide quality care to residents. Direct care staff must demonstrate the ability to treat each resident with respect, to adequately supervise residents at all times, and to receive instruction and make subsequent and sustained improvement in work performance accordingly.
2. All direct care staff must be at least twenty-one (21) years of age and must hold a high school diploma or other academic certification such as a certificate of high school equivalency (HiSet/GED).
3. The agency shall verify that all direct care staff have previous experience working with youth.

- (1) ~~Incorporation: Residential Child-Caring agencies may be operated by a society, agency, or corporation. If the residential child-caring agency is to be operated as a corporation, the licensing law provides that no residential child-caring agency, "shall receive a certificate of incorporation from the Secretary of State unless there shall first be filed with the Secretary of State by the Department a commendatory certificate approving the charter. All amendments to previously granted charters shall take the same course and meet the same requirements as are herein provided for a new and original charter."~~
- (2) ~~Constitution and By-Laws. The constitution and by-laws should be written in a manner which would encourage and facilitate progress and change to keep the function and philosophy of the organization in line with the best current theory and practice in child care.~~
- (a) ~~The incorporated agency must develop written by-laws which define policies and procedures pertaining to its organization and structure.~~
- (b) ~~The by-laws of the incorporated agency must include the following subjects:~~
- ~~1. Name~~
  - ~~2. Purpose, with a description of scope of operation~~
  - ~~3. Membership~~
  - ~~4. Powers and Duties of Board of Directors~~
  - ~~5. Size of Board of Directors~~
  - ~~6. Method of selection, tenure and rotation of Board Members~~
  - ~~7. Method of election of officers of the Board~~
  - ~~8. Organization of Board and its committees, enumerating their respective responsibilities.~~
  - ~~9. Method of calling Board meetings and annual meetings.~~
  - ~~10. Frequency of meetings, quorum requirements, rules of order~~
  - ~~11. Fiscal year dates~~
  - ~~12. Responsibilities of the administrator as specified in rule 0250-4-5-.05(2)(a), and his/her relationship to the Board.~~
- (3) ~~Composition of the Board.~~
- (a) ~~Every agency operating as a corporation must have a Board of Directors which operates as the responsible representative of the community and as the governing body of the agency. In a non-incorporated agency an Advisory Board must be established.~~
- (b) ~~Officers must be elected annually. The only employee who may serve as a voting member of the Board is the Executive Director.~~
- (c) ~~There must be a minimum of quarterly meetings. In special circumstances a meeting of the Executive Committee may substitute for a full board meeting.~~
- (4) ~~General Responsibilities of the Incorporated Agency.~~
- (a) ~~The Board must set up the corporate or legal existence of the agency and give it continuity.~~
- (b) ~~It must select and appoint the executive director, and delegate responsibility to the executive for administering the agency. It must perform a written evaluation of the executive director on an annual basis. This evaluation must be included in the executive director's Personnel file.~~

- (c) ~~It must assure that adequate funds are available for financing the agency's operations, including adequate staff, proper working conditions, salaries, and facilities.~~
  - (d) ~~It must govern the agency by policies and plans that it develops and approved and that are formulated with the executive and staff.~~
  - (e) ~~It must account for the service of the agency and the expenditure of funds. To be accountable it must make provision for proper bookkeeping including an annual audit and an annual budget. The Board must set the budget, study reports, ask questions, and stay informed regarding the agency's financial activities and fields of service.~~
  - (f) ~~It must not be involved in individual cases unless the Board member is a staff person whose job description authorizes such involvement.~~
  - (g) ~~It must keep minutes of each meeting which shall be available to the licensing department.~~
  - (h) ~~The annual application for licensure must be submitted to the Department and signed by the Chairman of the board and/or the Executive Director.~~
  - (i) ~~The governing board must be organized and must function according to its constitution, by-laws, and charter.~~
  - (j) ~~There shall be a plan for rotation of the governing board. Members shall serve no more than nine consecutive years.~~
- (5) ~~General Responsibilities of the Advisory Board.~~
- ~~(a) Every public agency must have an Advisory Board.~~
  - ~~(b) There shall be a plan for rotation of the Advisory Board. Members shall serve no more than nine consecutive years.~~
  - ~~(c) The Advisory Board of a facility shall keep written records clearly setting forth:~~
    - ~~1. Name of Agency~~
    - ~~2. Purpose of Agency~~
    - ~~3. Membership~~
    - ~~4. Powers and duties of the Board~~
    - ~~5. Size~~
    - ~~6. Method of selection, tenure, and rotation of members~~
    - ~~7. Method of election of officers~~
    - ~~8. Organization of the Board and its committees, enumerating their respective responsibilities~~
    - ~~9. Responsibilities of the administrator and their relationship to the Board~~
    - ~~10. Method of calling meetings and annual meetings~~
    - ~~11. Frequency of meetings, quorum requirements, and rules of order~~
    - ~~12. Fiscal year dates~~
    - ~~13. Method of amending the by-laws.~~

- ~~\_\_\_\_\_ (d) \_\_\_\_\_ Duties of the Advisory Board. The Advisory Board of a facility shall:~~
- ~~\_\_\_\_\_ 1. \_\_\_\_\_ Provide advice to the governing body.~~
- ~~\_\_\_\_\_ 2. \_\_\_\_\_ Keep informed of the operational policies and practices of the facility.~~
- ~~\_\_\_\_\_ 3. \_\_\_\_\_ Periodically review aspects of the operation of the facility.~~
- ~~\_\_\_\_\_ 4. \_\_\_\_\_ Meet as often as necessary but not less than quarterly.~~
- ~~\_\_\_\_\_ 5. \_\_\_\_\_ Maintain records of attendance and minutes of meetings. These records and minutes shall be available to the Department.~~
- ~~(e) \_\_\_\_\_ In public agencies, in the event of serious disagreement between the agency and Advisory Board; the Advisory Board shall report to the head of the governing unit statutorily responsible for the agency, clearly outlining the nature of the disagreement and its recommendations.~~
- ~~(6) \_\_\_\_\_ Financing.~~
- ~~(a) \_\_\_\_\_ Solicitation of Funds. Agencies which engage in the solicitation of funds for charitable purposes must comply with the Solicitation of Charitable Funds Act, T.C.A. § 48-3-301, et seq.~~
- ~~(b) \_\_\_\_\_ Funds~~
- ~~\_\_\_\_\_ 1. \_\_\_\_\_ Income must be adequate and stable to insure the efficient and effective operation of the program to which the agency commits itself.~~
- ~~\_\_\_\_\_ 2. \_\_\_\_\_ A statement must be submitted annually showing financial resources which will provide an adequate standard of service.~~
- ~~\_\_\_\_\_ (c) \_\_\_\_\_ Audit and Control~~
- ~~\_\_\_\_\_ 1. \_\_\_\_\_ Accounts must be audited annually by a certified public accountant or licensed public account consistent with accepted accounting principles. A copy of the audit is to be provided to the Department and must contain an opinion. Qualifications to the opinion must be reviewed by the board and this review must be recorded in the minutes.~~
- ~~\_\_\_\_\_ 2. \_\_\_\_\_ The administrator and others handling the agency's funds must be bonded. Premiums for the bonds must be paid by the organization unless otherwise provided by law or ordinance.~~
- ~~(d) \_\_\_\_\_ If the Agency does not maintain liability insurance covering the premises and the operations, the patient(s) or other legal custodian of all children in care must be advised of this fact, in writing either at the time of enrollment of the child, at the time an effective policy ceases to be effective, or on the effective date of these rules, whichever comes first. If, on the basis of such notification, the legal custodian desires to remove the child(ren) from the Agency, he/she must be allowed to do so, notwithstanding any prior agreement to the contrary. Any prepaid charges must be refunded on a prorated basis.~~

**Authority:** T.C.A. §§ ~~4-5-226(b)(2); 14-10-102; 37-5-101; 37-5-105; 37-5-106; and 37-5-501, et. seq.~~ **37-5-412(a).** **Administrative History:** Original rule certified June 10, 1974, Repeal and new rule filed April 4, 1979, effective May 21, 1979. Amendment filed March 6, 1980; effective April 20, 1980. Repeal and new rule filed December 30, effective February 13, 1987. Rule assigned a new control number, removed and renumbered from 1240-4-5-.01 filed and effective March 25, 1999.

#### **0250-04-05-.04 PERSONNEL SERVICE PROVISION**

##### **(1) Method of Providing Services**

- (a) Each agency shall develop written rules and behavioral guidelines for resident youth admitted to the agency's program. The agency shall provide each resident a copy of these rules and guidelines and shall ensure that each resident understands these requirements. Provisions shall be made for resident youth who have been designated as having Limited English Proficiency (LEP) or who have been diagnosed with a physical or mental impairment as provided in Rule 0250-04-01.
  - (b) Children under five (5) years of age must not be admitted into a residential child care agency, with the following exceptions:
    - 1. Children under five (5) years of age who are admitted with an older sibling or sibling group. These children must live with the sibling group in a cottage residence. In such circumstances, the cottage must have no more than six (6) children, including the houseparents' own children.
    - 2. Children under five (5) years of age who are admitted into a program with their parent(s). These children will be counted towards an agency's overall capacity and included in the staff to resident ratio.
  - (c) There shall be at least one (1) awake direct care staff for every eight (8) resident youth during waking and sleeping hours. Residential child care agencies using cottage residences serving eight (8) or fewer resident youth shall not be required to maintain awake staff during sleeping hours.
  - (d) There shall be a minimum of two (2) hours per week of casework service provided for each resident.
- ~~(1) The board of directors or the governing body in cooperation with the administrator, shall establish written personnel policies. These policies shall include:~~
- ~~(a) A job description for each position in the agency covering the position's responsibilities, academic qualifications, and required level of experience.~~
  - ~~(b) Annual salaries and performance review requirements.~~
  - ~~(c) Physical examination policy which must include a required physical examination and tuberculin test for all employees. The examination must be no older than 6 months prior to hire date.~~
  - ~~(d) Training activity requirements and method of documentation that employees have met these requirements.~~
  - ~~(e) A defined work week and hours to be worked per week.~~
  - ~~(f) Vacation policy that clearly defines amount of time allowed and payment plan.~~
  - ~~(g) Sick leave policy.~~
  - ~~(h) Policies regarding Social Security, insurance, retirement plans, and other fringe benefits.~~
  - ~~(i) Agency grievance procedure.~~
  - ~~(j) Grounds for dismissal~~
  - ~~(k) Leisure time provision~~
    - ~~1. Each staff member must have a minimum of six days off a month or its equivalent.~~
    - ~~2. Leisure time provision must include a plan for continuity of supervision when other staff are on leisure time.~~
  - ~~(l) Written policy related to child sexual abuse as dictated by state law. This policy is to include~~

information addressing the following areas.

~~1. For Child Care Staff:~~

~~(i) Reserved.~~

~~(ii) Within two weeks of being on the job, each new employee must receive orientation instructions related specifically to child abuse detection, reporting, and prevention. This training must be documented in the employee's personnel file.~~

~~2. For Children. The Child-Caring Agency must have a instructional program in child sexual abuse prevention for all residents. The curriculum must include information on such pertinent subjects as: personal ownership of our bodies, touching, reporting abuse within the agency. Appropriate treatment must be provided for those who have been victims of sexual abuse. Such treatment must be provided either by the Agency, and/or the Agency's qualified designee.~~

~~(2) Staff Records~~

~~(a) Records on all staff members and information on applicants for jobs must be kept in a locked filed at the agency. They must include: An application, reports from three references, one of whom must be a former employer, a physical examination, when required, including tuberculin test, a record of participation in orientation and training activities, a record of positions held by the person during employment at the agency, record of leave, and date and reason for termination.~~

~~(b) In addition to the above, copies of an annual evaluation of the quality of work done by the person while in the agency must be kept in his personnel record. These evaluations must be prepared by the administrator, assistant to the administrator, or by the person directly responsible for supervision of the employee. If not conducted by the administrator it must be approved by the administrator.~~

~~(c) Staff shall have access to their personnel records as afforded to them by law.~~

~~(3) Staff Development~~

~~(a) Agencies must provide new staff with an orientation program that thoroughly acquaints the new employee with agency philosophy, policies, and procedures specifically including confidentiality procedures. This program must be under the supervision of qualified staff and appropriate to the position being assumed by the new employee.~~

~~(b) A program of in-service training must be developed which provides staff with a minimum of 6 hours in-service training annually. Attendance at conferences and workshops may be included as part of the 6 hours minimum requirements.~~

~~(c) Participation in these activities must be documented in personnel files.~~

**Authority:** T.C.A. §§ ~~4-5-226(b)(2); 14-10-104, 37-1-612; 37-5-101; 37-5-105; 37-5-106; and 37-5-501, et. seq. 37-5-112(a).~~ **Administrative History:** Original rule certified June 10, 1974, Repeal and new rule filed April 4, 1979, effective May 21, 1979. Amendment filed March 6, 1980; effective April 20, 1980. Repeal and new rule filed December 30, effective February 13, 1987. Rule assigned a new control number, removed and renumbered from 1240-4-5-.01 filed and effective March 25, 1999.

**0250-04-05-.05 STAFF REQUIREMENTS AND EXCEPTIONS FOR HARDWARE SECURE RESIDENTIAL CHILD CARE AGENCIES**

**(1) Definitions for the purposes of this section:**

**(a) "Administrator" or "Facility Administrator" means the director of the Hardware Secure Residential Child Care Agency.**

- (b) "Administrator Designee" means a person authorized by the Facility Administrator to make procedural decisions or to otherwise act on behalf of the Facility Administrator in certain situations.
  - (c) "Chemical Defense Agent" means any product which is dispensed by means of an aerosol spray to control behavior of an individual posing a risk of harm to themselves or to others.
  - (d) "Department" or "DCS" means the Tennessee Department of Children's Services.
  - (e) "Established Curriculum" means a standards-based sequence of instruction designed to achieve proficiency in content and applied learning skills.
  - (f) "Physical Restraint" means the use of bodily contact by staff upon a resident youth to restrict the youth's freedom of movement or normal access to their body.
  - (g) "Mechanical Restraint" means the use of handcuffs, shackles, or other similar devices.
  - (h) "Restrictive Behavior Management" or "RBM" means any use of physical or mechanical restraint, use of chemical defense agents, or use of any form of seclusion as defined in this rule or T.C.A. § 37-5-214.
  - (i) "Seclusion" means any form of involuntary segregation of a child from the rest of the resident population and as defined in T.C.A. § 37-5-214.
  - (j) "Sentinel Event" means any event that results in death, permanent harm, or severe temporary harm of a resident youth.
  - (k) "Staff" means full time and part time employees of a Hardware Secure Residential Child Care Agency.
- (2) General Requirements. The general requirements of this Chapter shall be met by all Hardware Secure Residential Child Care Agencies, in addition to the following requirements and exceptions:
- (a) Hardware Secure Residential Child Care Agencies shall be classified according to the date operations began. Any program which began operation as a Hardware Secure Residential Child Care Agency after January 1, 2023 shall be considered new, while any facilities operating prior to that date shall be considered existing facilities.
  - (b) There shall be written plans, developed in advance, for dealing with emergencies such as escape, medical emergencies, quarantine, disturbances, assaults on staff, hostage taking, and emergency evacuation. These written plans shall be incorporated into the program's operations manual. Each staff member shall be trained on these plans. Training documentation shall be noted in individual employee training records.
  - (c) Any use of restricted behavior management (RBM) practices as defined in paragraph 1 of this section shall comply with all applicable standards established by the agency's policies and procedures; state licensing regulations; Tennessee state law; and the agency's accrediting body. The agency will comply with whichever standard is the least restrictive to the resident youth.
  - (d) Any incident involving the use of RBM shall be documented in a written incident report form provided by the licensing office and retained either in the youth's individual file or in a central file dedicated to documentation of such practices. All applicable sections of the incident report shall be completed in their entirety to demonstrate compliance with licensing regulations and/or state law. Incident reports completed by facility staff to fulfill DCS contractual requirements shall be considered acceptable in meeting compliance with this provision only if the content of the incident report meets the requirements of the form provided by the licensing office. The incident shall be reviewed by the facility administrator or facility administrator's designee prior to the conclusion of the shift and reported as designated by the department. All incident reports shall be made available for review by the licensing office. Significant incidents include, but need not be limited to, the following:



1. Aggressive behavior (e.g., threats, fights, assaults);
  2. Attempted and/or completed escapes;
  3. Suicidal ideation, threats, and attempts;
  4. Use of physical force by staff;
  5. Use of seclusion;
  6. Use of mechanical restraints for reasons other than transportation;
  7. Use of chemical defense agents;
  8. Sentinel events;
  9. Other serious events, including, but not limited to:
    - i. Incidents involving multiple youth, such as youth assaulting staff member(s) or rioting;
    - ii. Runaway incidents lasting over twelve (12) hours;
    - iii. Investigation of facility operations or personnel by federal, state, or local law enforcement; and
    - iv. Mandatory reporting to the Child Abuse Hotline by facility staff regarding any incident occurring within the facility or involving resident youth or staff.
- (e) There shall be at least one (1) direct care staff for every eight (8) resident youth during waking hours and at least one (1) awake direct care staff for every sixteen (16) resident youth during sleeping hours.
- (f) In addition to similarly established provisions in this chapter, each Hardware Secure Residential Child Care Agency shall ensure the following topics are included in staff development:
1. Hostage policy;
  2. Crisis Management/Emergency Planning;
  3. Use of Restrictive Behavior Management, including approved physical restraint techniques, chemical defense agents and mechanical restraint, use of seclusion as previously defined, what staff is designated to authorize the use of any RBM practice, and how to obtain such authorization;
  4. Security procedures;
  5. Behavioral observation and recording, including assessment of physical and emotional well-being during the use of RBM practices;
  6. An established curriculum around the effective use of verbal de-escalation techniques;
  7. Federal mandates, including PREA and Title VI; and
  8. All local policy and procedure associated with the facility.
- (g) All staff members who are designated to authorize and/or use RBM shall receive basic and ongoing annual in-service training to ensure local practice meets current and acceptable guidelines established by accrediting bodies, licensing regulations, and state law. All such training shall be recorded with the dates completed and maintained in the staff member's personnel file.



- (h) Requirements regarding the use of volunteers in hardware secure residential settings shall adhere to the provisions established in Chapter 0250-04-01.
- (i) Documentation related to incidents included in provisions of the Prison Rape Elimination Act (PREA) should be maintained in accordance with those standards and be made available for review by licensing staff, accrediting bodies, and entities charged with certifying PREA compliance.
- (j) The facility shall visually count resident youth and record the results at the beginning and end of each shift change.
- (k) The following minimum provisions for physical plant shall apply to each Hardware Secure Residential Child Care Agency:
  - 1. Sleeping areas shall be free from hazardous conditions that would facilitate suicide attempts or self-harm.
  - 2. All sleeping and activity areas shall have lighting of at least twenty (20) foot-candles to be measured three (3) feet off the floor. These measurements shall be taken and documented by an independent source, such as the state or local fire marshal, and shall be retested at least every three (3) years.
  - 3. New and existing facilities shall have forced air ventilation in all sleeping and activity areas.
  - 4. Access to natural light shall be present in all sleeping areas.
  - 5. A temperature between sixty-five (65) degrees Fahrenheit and eighty (80) degrees Fahrenheit shall be maintained in sleeping and activity areas.
  - 6. The minimum size of a single sleeping room shall be fifty (50) square feet of unencumbered floor space with a ceiling height of not less than eight (8) feet. All dimensions of room length and width for both single and multiple occupancy rooms shall allow for a reasonable amount of useable floor space for any in-room activities of resident youth and one wall measurement shall be at least seven (7) feet. Any issues pertaining to sufficiency of room dimensions shall be determined by the Department's licensing office. Each room shall contain a bunk, a toilet, and a sink/washbasin.
  - 7. Sleeping rooms shall not be designed to accommodate more than eight (8) resident youth. A minimum of thirty-five (35) square feet of unencumbered floor space for each youth shall be provided in such sleeping areas, with a ceiling height of not less than eight (8) feet. One wall measurement shall be at least seven (7) feet.
  - 8. Operable toilets and washbasins shall be provided to resident youth at a ratio of at least one (1) toilet and washbasin to every eight (8) resident youth and one (1) toilet and washbasin accessible to the occupant of a single occupancy room without the occupant having to leave the room.
  - 9. Operable showers shall be provided to resident youth at a ratio of at least one (1) shower to every sixteen (16) resident youth and shall be accessible to youth without having to leave their designated area.
  - 10. A secure outdoor recreation area shall be provided with dimensions of at least thirty (30) feet by thirty (30) feet or an indoor recreation area of the same dimensions which has access to natural light.
  - 11. There shall be a secure control center, staffed continuously, through which telephone and other communications are channeled. The location of the control center shall provide line of sight visibility or be equipped with a monitoring device. The control center shall monitor the operation of security and life safety systems.

12. Drinking fountains with potable water shall be located in all sleeping and activity areas of new facilities. In existing facilities, if the water from washbasins is potable, it shall not be necessary to add drinking fountains, but sanitary drinking cups shall be made available.
13. Programs using electric locks shall also ensure that those locks may be opened manually.
14. All glass in the facility (windows, vision panels, etc.) shall be made of a mar-resistant polycarbonate laminate.

~~(1) General Qualifications.~~

- ~~(a) Agency employees shall be persons of good character. They shall possess the health, emotional stability and ability necessary to carry out their assigned duties. No person shall be employed by the agency who has been convicted of any offense against children, or who has been identified as the perpetrator of child abuse.~~
- ~~(b) An agency shall obtain references attesting to the character, integrity, and ability to perform tasks required for the position. At least one of these references must be from a former employer.~~
- ~~(c) A report of a physical examination completed within no more than six months prior to hire date shall be on file for all employees. The resident children of staff shall also have on file an initial medical statement of good health or a physical exam.~~
- ~~(d) Prospective Employees — (After effective date of these standards.) The tuberculin skin test is recommended for initial screening and should be done within 90 days prior to employment. Prospective employees who are known to have a positive tuberculin reaction or who refuse to have a tuberculin test shall receive a chest x-ray and, if necessary, other tests within 90 days of employment. If infectious tuberculosis is ruled out, no future certificate is required during their employment unless persistent pulmonary symptoms develop or there is contact to tuberculosis.~~
- ~~(e) Current Employees~~
  - ~~1. Current employees who have already presented certification of a negative tuberculin skin test will require no future certification during their employment, unless persistent pulmonary symptoms develop or there is contact to tuberculosis.~~
  - ~~2. Current employees who are tuberculin reactors and whose certification was based on a chest x-ray will require no future certification during their employment unless persistent pulmonary symptoms develop or there is contact to tuberculosis.~~

~~(2) Specific Qualifications for Staff.~~

~~— (a) The Administrator~~

- ~~1. The administrator must be selected by the Governing Board and be accountable to the Board for satisfactory performance of duties.~~
- ~~2. An administrator must be a graduate of an accredited 4 year college or university, preferably from the field of education, medicine, nursing, social work, religious service, or some allied profession, or must have a minimum of 10 years administrative experience, who perceives the position as one of leadership in child care.~~
- ~~3. Any administrator who does not meet this requirement holding this position prior to the effective date of these standards, is permitted to remain in this position. Any administrator employed following the effective date of these standards must meet these requirements.~~
- ~~4. The administrator must be responsible for:~~
  - ~~(i) Attending Board meetings and participating in all planning for the agency.~~

- (ii) ~~Assuring that the agency keeps accurate statistical reports that give the complete scope of the work of the agency.~~
- (iii) ~~Assuring that monthly and annual reports on forms furnished by the Tennessee Department of Children's Services are submitted, as well as any special reports that may be required from time to time.~~
- (iv) ~~Preparing the agency's budget in cooperation with the Board and operating the agency within the budget approved by the Board.~~
- (v) ~~Selecting, employing, training, and discharging (when necessary), all staff and supervising the daily management of the agency if another person has not been delegated that responsibility.~~
- (vi) ~~Communicating to the Board information on the operation of the agency, unmet needs, and modern methods regarding child care services.~~
- (vii) ~~Implementing the policies of the Board and bringing to the Board's attention areas which require modification or change, and interpreting the agency's program to the community and giving professional leadership to the Board in doing this job.~~
- (viii) ~~Maintaining adequate records on the administrative and fiscal operation of the agency.~~
- (ix) ~~The administrator must hold staff meetings at regular intervals and discuss plans and policies with his staff. The administrator must secure adequate clerical staff to keep correspondence, records, bookkeeping, and files current and in good order.~~

~~(b) The Caseworker.~~

- 1. ~~Following the effective date of these standards, the agency is required to have a qualified caseworker as a member or its staff within one year.~~
- 2. ~~The caseworker must be graduate of an accredited four year college or university with a major in social work or a related field such as psychology or sociology.~~
- 3. ~~Caseworker services can be provided by the agency itself or by entering into written agreements and/or contracts with qualified individuals, and/or public or private agencies qualified to provide such services.~~
- 4. ~~In small agencies with less than 20 residents, the administrator may serve as a caseworker providing that he meets the same qualifications as a caseworker.~~
- 5. ~~It is the responsibility of the caseworker to carry out the responsibilities set forth in the Casework Services section.~~

~~(c) Child Care Staff.~~

- 1. ~~All child care staff must be responsible persons possessing the skills necessary to cope with problems and live amicably as a family group. The capacity of child care staff to provide care must be evaluated on an annual basis. All persons living in residence are to be included in this evaluation.~~
- 2. ~~Child care staff must have the character and personality suited to provide care to children. They must be able to accept and respect each child as an individual, demonstrate care and concern, provide a stable family-like atmosphere, have knowledge and understanding of child care, and have the ability to learn and grow on the job.~~

3. ~~Child care staff must be at least 18 years of age. They must hold a high school degree or its equivalent. Any child care worker who does not meet this requirement prior to the effective date of these standards is permitted to remain in this position. Any child care worker following the effective date of these standards must meet this requirement or have a specific plan of action to meet it.~~

~~(d) Volunteers.~~

1. ~~For purposes of these standards a volunteer shall be considered to be any person providing assistance to the agency without remittance who has direct, and ongoing contact with the residents.~~
2. ~~If volunteers are used, a process of application and screening shall be established in the agency to insure that volunteers are of such character and competence as to meet the agency's needs.~~
3. ~~A program of ongoing training and orientation to the philosophies and practices of the agency shall be provided each volunteer within the agency.~~
4. ~~Adequate supervision of volunteers shall be provided by paid staff.~~
5. ~~An individual file including the application to participate as a volunteer, the results of the screening process and letters of reference, shall be maintained by the agency on each volunteer.~~

**Authority:** T.C.A. §§ ~~4-5-226(b)(2); 14-10-104, 37-1-603; 37-1-612; 37-5-101; 37-5-105; 37-5-106; and 37-5-501, et. seq. 37-5-112(a).~~ **Administrative History:** Original rule certified June 10, 1974, Repeal and new rule filed April 4, 1979, effective May 21, 1979. Amendment filed March 6, 1980; effective April 20, 1980. Repeal and new rule filed December 30, effective February 13, 1987. Rule assigned a new control number, removed and renumbered from 1240-4-5-.01 filed and effective March 25, 1999.

**0250-04-05-.06 SERVICE PROVISION**

~~(1) Method of Providing Service.~~

- (a) ~~Children must not be accepted into group care before it is clearly established that their own families, with help, cannot offer them a home. They must not be admitted simply because they are in need of care away from their own homes, but because there are in need of the specific kind of care and services a particular agency has to offer.~~
- (b) ~~The facility must not admit any children in excess of its license capacity. (Refer to 0250-4-5-.12 Emergency Shelter Care, for exception).~~
- (c) ~~Children under five (5) years of age must not be admitted into a Residential Child-Care Agency. The only exception to this rule can be the acceptance of one child under five (5) years of age who is admitted with an other sibling group. This child must not be under three (3) years of age and must live with the sibling group in one cottage. The cottage must have no more than six (6) children with a man and wife serving as house parents. (Refer to 0250-4-5-.12 Emergency Shelter Care, for exception).~~

~~(2) Admission and Discharge Policies and Procedures. The agency must have written policy and procedures for Admission and Discharge which must be available to all appropriate parties involved with the child.~~

~~(a) Admission. Admission criteria must include the following:~~

1. ~~A description of the population served, defined needs of this population, and a description of agency services related to these needs.~~
2. ~~A positional statement when appropriate that surrender for adoption is not a criterion for admission.~~

3. ~~\_\_\_\_\_ A defined pre-admission summary which must require a written evaluation addressing the appropriateness of resident needs to agency services.~~
4. ~~\_\_\_\_\_ A description of agreed upon pre-placement procedures which must include pre-placement visits when feasible.~~
- (b) ~~\_\_\_\_\_ Discharge. Discharge policy must set forth the legal requirement that a custody transfer may only be made through court action after proper investigation by a designated agency. Discharge criteria must require:~~
  1. ~~\_\_\_\_\_ A description of conditions under which a resident may be discharged.~~
  2. ~~\_\_\_\_\_ A description of procedures for preparing a child for discharge to include designated time frames.~~
  3. ~~\_\_\_\_\_ A documented discharge plan which addresses the resident's continuing needs and planned services to meet these needs.~~
  4. ~~\_\_\_\_\_ Provision for a written agreement assuming responsibility for the child to be signed by the resident's legal custodian.~~
- (3) ~~\_\_\_\_\_ Casework Services:~~
  - (a) ~~\_\_\_\_\_ There must be at least one hour per week of casework services for each child in care.~~
  - (b) ~~\_\_\_\_\_ Casework services must be provided by a graduate of an accredited four-year college or university with a major in social work or a related degree in the field of human behavior.~~
  - (c) ~~\_\_\_\_\_ Casework services must include but are not limited to:~~
    1. ~~\_\_\_\_\_ A written intake/pre-evaluation study focused on determining whether group care is appropriate for a particular child.~~
    2. ~~\_\_\_\_\_ Preparation of the child and his family or prior placing agency for admission to include pre-placement visits when feasible.~~
    3. ~~\_\_\_\_\_ An individual plan of care setting forth the agency services to be provided each resident, the rationale for this service, and documentation of the service as it is provided.~~
    4. ~~\_\_\_\_\_ Periodic evaluation of the family situation and their ability and willingness to make a home for the child according to the timetables set forth in the foster care review law.~~
    5. ~~\_\_\_\_\_ Serving as liaison and communicator between family, custodian, and agency.~~
    6. ~~\_\_\_\_\_ Working with appropriate staff toward evaluating the needs of the child and obtaining resources to meet those needs.~~
    7. ~~\_\_\_\_\_ Assuring that all provisions of the Foster Care Review law are met (Refer to Appendix C. Refer to 0250-4-5-.12 Emergency Shelter Care for exception.)~~
- (4) ~~\_\_\_\_\_ Restriction to one type of care. Residential child-caring agencies providing full time care must not provide part time care to children except with the prior knowledge and consent of the Department.~~
- (5) ~~\_\_\_\_\_ Provision of Continuous Supervision. A responsible adult must be with the children in care at all times. A written plan must be developed to obtain additional adult help for times of emergency. Older teenagers may be left unattended for brief periods of time when they have demonstrated their ability to responsibly handle freedom. (Regardless of age, emergency shelter care requires the presence of a responsible adult at all times.)~~

**Authority:** ~~T.C.A. §§ 4-5-226(b)(2); 14-10-104; 37-1-603; 37-1-612; 37-5-101; 37-5-105; 37-5-106; and 37-5-112(a).~~ **Administrative History:** ~~Original rule certified June 10, 1974, Repeal and new rule filed April 4, 1979,~~

*effective May 21, 1979. Amendment filed March 6, 1980; effective April 20, 1980. Repeal and new rule filed December 30, effective February 13, 1987. Rule assigned a new control number, removed and renumbered from 1240-4-5-.01 filed and effective March 25, 1999.*

## **0250-04-05-.07 CARE OF THE CHILDREN.**

### **(1) ~~Staff-Child Ratio.~~**

~~(a) In determining the ratio of staff to children in cottages, the professional and auxiliary staff on duty may be included, if on the premises.~~

~~(b) There must be at least one (1) staff member for every eight (8) children in care.~~

### **(2) ~~Discipline: Agencies shall develop general Discipline Policy which identifies the type of children served, describes the anticipated behavioral problems of this population, sets forth acceptable methods of dealing with these behaviors, and details the required qualifications and training of staff working with the residents. All consequences of undesirable behavior shall be reasonable and consistent with the service plan for the resident.~~**

~~(a) All discipline must be reasonable and responsible related to the child's understanding, need, and level of behavior. All discipline shall be limited to the least restricted appropriate method and administered by appropriately trained staff.~~

~~(b) Encouragement and praise of good behavior is often more effective than punishment, and is a must in disciplining a child. The child's acceptance of discipline and his/her ability to profit by it depends largely upon his/her feeling that he/she is liked, accepted, and respected.~~

~~(c) Any discipline must be determined on an individual basis and be related to the undesirable behavior. Requiring children to accept the natural consequences of their acts may be a desirable experience provided consequences are not too drastic.~~

~~(d) The facility shall have written policies and procedures prohibiting punishment which may adversely affect a child's health, physical, or psychological well being. A copy must be given to all residents, families, staff, and, placing agencies. The following forms of punishment must not be used:~~

~~1. Cruel and unusual punishment.~~

~~2. Assignment of excessive or inappropriate work.~~

~~3. Denial of meals, daily needs and program provided by the individual service plan.~~

~~4. Verbal abuse, ridicule or humiliation.~~

~~5. Permitting a child to punish another child.~~

~~6. Chemical or mechanical restraints.~~

~~7. Denial of planned visits, telephone calls, or mail contacts with family.~~

~~(e) If corporal punishment is permitted under the Agency's policies, the Agency must have the written consent of the child's parent, guardian, or other legal custodian before administering such corporal punishment.~~

### **(3) ~~Physical Control and Isolation.~~**

~~(a) All agencies using physical control techniques must have written policies defining the method of control, identifying persons used in implementing these methods, and establishing the training required for such persons. These policies must require:~~

~~1. Use of two fully qualified staff.~~

- \_\_\_\_\_ 2. \_\_\_\_\_ Immediate notice to supervisor.
- \_\_\_\_\_ 3. \_\_\_\_\_ A written report to the administrator.
- 4. \_\_\_\_\_ A review process for use of the facility's Executive Committee which must also be available to licensing staff.
- (b) \_\_\_\_\_ If isolation from others in a time out room is used as a control measure, written policies must set forth the parameters of this measure.
  - 1. \_\_\_\_\_ The facility must keep a record of each isolation incident, provide for direct supervision every 15 minutes and limit the time to a maximum of 30 minutes for children 7 to 11 years of age and a maximum of one hour for children over 12 years of age. Any additional times required shall be approved by the executive director, but in no event shall it exceed two hours. Time out rooms must not be locked.
- (4) \_\_\_\_\_ Abuse of Children.
  - (a) \_\_\_\_\_ All public and private agencies must have written policy which establishes internal controls for the prevention and detection of abuse or neglect of children.
  - (b) \_\_\_\_\_ All public and private agencies must have written policies and procedures for reporting incidents of abuse or neglect of children. These policies should clearly set forth the roles and responsibilities of all parties involved in both the reporting and investigative process.
- (5) \_\_\_\_\_ Exploitation. Any agency must not engage in practices which exploit the rights of children. Children shall not be identified in connection with publicity for the agency unless a positive value accrues for the child.
- (6) \_\_\_\_\_ Health
  - \_\_\_\_\_ (a) \_\_\_\_\_ Physical Examinations
    - 1. \_\_\_\_\_ Children must have had a physical exam at least six (6) months prior to placement or within five (5) working days after placement.
    - 2. \_\_\_\_\_ Children must receive physical assessments at the following intervals:
      - \_\_\_\_\_ (i) \_\_\_\_\_ 5 to 6 years \_\_\_\_\_ every twelve months
      - \_\_\_\_\_ (ii) \_\_\_\_\_ Six years and above \_\_\_\_\_ every three years.
  - (b) \_\_\_\_\_ Dental Care. The teeth of each child must be examined annually and any indicated correction of defects of the teeth and mouth be initiated. The same care applies to both permanent and temporary teeth.
  - (c) \_\_\_\_\_ Immunizations
    - 1. \_\_\_\_\_ The following immunizations (unless there is a medical reason to the contrary, certified by the child's physician) shall be begun before admission and must be completed within six (6) months, Diphtheria, Whooping Cough, (for children under 7 years of age), Tetanus, Polio, Measles, Rubella, Mumps, others recommended by the physician.
    - 2. \_\_\_\_\_ The home must have a written record of the above information. (Refer to Emergency Shelter Care for exception).
  - \_\_\_\_\_ (d) \_\_\_\_\_ Illness
    - \_\_\_\_\_ 1. \_\_\_\_\_ Doctor's orders must be observed during the course of an illness.
    - 2. \_\_\_\_\_ Regulation of visits, sanitation of dishes and utensils, and good personal hygiene must be



~~observed as the nature of the illness warrants.~~

- ~~3. in case of death or life threatening illness or injury notify legal guardian and state licensing immediately.~~

~~(e) Medications~~

- ~~1. All medications including over the counter drugs, attitude manipulators, tranquilizers, legend pain killers, barbiturates, or amphetamines, must be safeguarded by a double entry medication system whereby each medication is recorded as it comes into the agency. Administration of all medications must be documented. Medications must be double-locked within the agency.~~
- ~~2. The agency must not have psychotropic drugs as stock items. Such drugs must be individually prescribed and kept in the original containers with the name of the patient, drug, dosage, frequency of administration and prescription number unless filled directly by the physician.~~
- ~~3. Other prescribed medication may not be administered without a specific order or standing order from a licensed physician.~~

~~(f) First-Aid Supplies. First aid supplies must be kept on hand but secured out of reach of children.~~

~~(7) Education and Religion.~~

- ~~(a) All children in resident must be in compliance with Tennessee state law on compulsory school attendance.~~
- ~~(b) Certain handicapped children may require specialized training suitable to their needs. If so, this must be provided.~~
- ~~(c) If it is not possible on the part of the agency's program for the children to attend public school, the school within the institution must conform both as to program and physical set-up with standards set by the Tennessee Department of Education. This also applies to special education classes or remedial work provided by the home.~~
- ~~(d) The atmosphere prevailing in the home must be such as to foster the spiritual growth of the child in his daily living.~~

~~(8) Nutrition~~

- ~~(a) Food of adequate quality and quantity must be served and meet the child's dietary allowances as recommended by USDA. (Refer to Appendix D for further requirements).~~
- ~~(b) Three meals and snacks must be provided daily (Refer to Appendix D) with no more than a fourteen-hour span between a substantial evening meal and breakfast of the following day.~~
- ~~(c) All special diets must be prepared as prescribed by the physician or recommended by a dietician.~~
- ~~(d) Denial of a nutritionally adequate diet must not be used as punishment.~~

~~(e) Menus~~

- ~~1. Menus for the week must be prepared in advance. These menus must be followed and must be varied from week to week.~~
- ~~2. Menus must be kept on file for a period of one month.~~

~~(9) Recreation. There must be a planned program of recreation for all children in care.~~

~~(a) Outdoor activity areas:~~



- ~~1. Must protect small children from traffic hazards.~~
- ~~2. Must provide appropriate recreational materials and supplies.~~

**Authority:** ~~T.C.A. §§ 4-5-226(b)(2); 14-10-104, 37-1-603; 37-1-612; 37-5-101; 37-5-105; 37-5-106; and 37-5-112(a).~~ **Administrative History:** ~~Original rule certified June 10, 1974, Repeal and new rule filed April 4, 1979, effective May 21, 1979. Amendment filed March 6, 1980; effective April 20, 1980. Repeal and new rule filed December 30, effective February 13, 1987. Rule assigned a new control number, removed and renumbered from 1240-4-5-.01 filed and effective March 25, 1999.~~

#### **~~0250-04-05-.08 PARENT INVOLVEMENT IN CARE.~~**

##### ~~(1) Understanding the Parents.~~

- ~~(a) Children's feelings for their own family must be respected regardless of their heritage or the unsuitability of the surroundings in which they may have lived.~~
- ~~(b) Staff must try to strengthen the child's ties with his/her family when appropriate, recognizing that it is very difficult for the child to be away from his/her parents and for parents to be separated from their child.~~
- ~~(c) Discussion and planning sessions must include children, parents, and other appropriate parties when it is feasible.~~

**Authority:** ~~T.C.A. §§ 4-5-226(b)(2); 14-10-101, 37-1-603; 37-1-612; 37-5-101; 37-5-105; 37-5-106; and 37-5-112(a).~~ **Administrative History:** ~~Original rule certified June 10, 1974, Repeal and new rule filed April 4, 1979, effective May 21, 1979. Amendment filed March 6, 1980; effective April 20, 1980. Repeal and new rule filed December 30, effective February 13, 1987. Rule assigned a new control number, removed and renumbered from 1240-4-5-.01 filed and effective March 25, 1999.~~

#### **~~0250-04-05-.09 PHYSICAL FACILITIES.~~** ~~Refer to 0250-4-5-.11 Requirements for Wilderness Camps, for exception).~~

- ~~(1) All facilities shall be constructed according to standards approved by the Tennessee Department of Health and Environment and the Fire Safety Division of the Tennessee Department of Insurance. Plans for new structures and renovations that house or accommodate children shall be submitted to the Fire Safety Division of the Tennessee Department of Insurance and the Tennessee Department of Health and Environment. All new structures and renovations must include Title 504 specifications.~~
- ~~(2) All buildings shall be inspected and approved annually by the designated Fire Safety Authority and by representatives from the Tennessee Department of Health and Environment. (Refer to Appendices A and B). The Agency must e in compliance with the applicable regulations and standards of these authorities in order to obtain or retain a license.~~
- ~~(3) There must be a family type setting and living arrangements which enhance family living.~~
  - ~~(a) Living Room. There must be a living room or den for each group of children.~~
  - ~~(b) Sleeping Provision~~
    - ~~1. Each child must have a separate bed of suitable size.~~
    - ~~2. Children of opposite sex over the age of five must not sleep in the same room.~~
    - ~~3. Children must not sleep in the same room with adults. Exceptions may be desirable on infrequent occasions and for short periods of time in case of illness or temporary emotional upset.~~
    - ~~4. 65 square feet of floor space in the sleeping area must be available for the first child and 50 square feet must be available for each additional child.~~

5. ~~There shall be no more than four (4) children per sleeping room.~~

~~(c) Kitchen~~

1. ~~The kitchen must be equipped to insure sanitary conditions.~~

2. ~~There must be a satisfactory method of refrigeration.~~

3. ~~There must be enough dishes and silverware to serve the household, suitable to a child's use and similar to an adults.~~

4. ~~Cooking and eating utensils must be kept in storage space which is protected from dust, insects and other pests.~~

5. ~~Space that is secured and well out of the reach of children must be provided for storage of all bleaches, corrosives or poisons.~~

6. ~~There must be enough tables and chairs to provide accommodations without crowding. They must be kept clean.~~

~~(d) Sanitary Facilities~~

1. ~~Toilet and bathing facilities must be in the home. (Exception for Wilderness Program)~~

2. ~~Toilets must be of the flush type. (Exception for Wilderness Program)~~

3. ~~There must be adequate and sanitary sewage disposal.~~

4. ~~The water supply must be obtained from a source or system approved by the Tennessee Department of Health and Environment.~~

5. ~~All garbage must be placed in a tightly covered container and disposed of in a sanitary manner.~~

6. ~~Individual towels and washcloths must be provided for each child. Provision must be made to keep all toilet articles separate.~~

7. ~~All children's equipment must be kept clean.~~

~~(4) Safety Requirements~~

~~(a) Measures must be taken to remove hazards and to prevent accidents.~~

~~(b) Children with physical and emotional handicaps must be protected through appropriate and specific safety measures.~~

~~(c) There must be adequate smoke detectors and fire extinguishers to insure fire safety.~~

~~(d) Each home must have posted, in a visible and accessible location, a written plan for evacuation.~~

~~(e) Children must be trained in emergency evacuation procedures.~~

~~(f) Emergency telephone numbers must be immediately accessible to the telephone.~~

**Authority:** ~~T.C.A. §§ 4-5-226(b)(2); 14-10-101 through 14-10-130; 37-1-603; 37-1-612; 37-5-101; 37-5-105; 37-5-106; and 37-5-112(a). **Administrative History:** Original rule certified June 10, 1974, Repeal and new rule filed April 4, 1979, effective May 21, 1979. Amendment filed March 6, 1980; effective April 20, 1980. Repeal and new rule filed December 30, effective February 13, 1987. Rule assigned a new control number, removed and renumbered from 1240-4-5-.01 filed and effective March 25, 1999.~~

## **0250-04-05-.10 RECORDS AND REPORTS**

~~(1) Records. For the protection of the agency staff and the children under care, the following records must be kept, and should be revised frequently to keep them up to date. Although another agency may have complete records on the children, information must be kept on file for emergency purposes. Only authorized persons may have access to case records. Case records must include:~~

~~(a) Identifying Information~~

- ~~1. Name of each child, date, and place of birth.~~
- ~~2. Full name, home address(es), telephone number(s), work address(es), and work telephone number(s) of parents.~~
- ~~3. Name, address, and telephone number of a competent adult who can assist in an emergency, e.g. next of kin, other relative, DHS, etc.~~
- ~~4. Name, address, and telephone number of a physician to use in case of an emergency.~~

~~(b) Intake/Pre-Admission Study (Refer to 0250-4-5-.12 Emergency Shelter Care for exception).~~

~~(c) Health Information must include:~~

- ~~1. A report of each child's initial physical examination; current immunization record; and record of ongoing care received while in the home.~~
- ~~2. Written permission for the agency staff to obtain emergency medical care must be signed by the person legally responsible for the child. (Refer to Emergency Shelter Care for exception).~~
- ~~3. Information regarding coverage for medical expenses, e.g., insurance, Medicaid, etc.~~

~~(d) Foster Care Plan. There must be a written plan for each child in care and appropriate follow-up reporting as mandated by the Foster Care Review Law. (Refer to Emergency Shelter Care for exception).~~

~~(e) Length of Stay. There must be information about the length of a child's stay in the group home and his/her release from care. (Refer to Emergency Shelter Care for exception).~~

~~(f) School Records. There must be documentation of school involvement for the time the child is in the care of the agency. (Refer to Emergency Shelter Care for exception).~~

~~(g) Narrative recording dated and signed by the appropriate worker indicating significant activity on the case.~~

~~(h) Relevant legal documents and correspondence.~~

~~(2) Availability of Records~~

~~(a) All required records must be available upon request to any authorized agent of the Department.~~

~~(b) The records must be stored in a locked, fire resistant file and must be handled confidentially.~~

~~(3) Reports. Reports of the following must be made to the Department within the time specified:~~

~~(a) Monthly statistical report — monthly statistical reports must be completed by every agency on forms provided by the Department.~~

~~(b) Annual report — each child care agency must submit to the Department an annual report on a form which will be provided by the Department.~~

- ~~(c) — Change in location — at or prior to the time of change.~~
- ~~(d) — Death, or life-threatening injury to any child in the child care agency — immediately.~~
- ~~(e) — All major emergency situations must be reported as soon as possible.~~

~~(4) — Posting of License. A license to operate a residential child-caring agency of family boarding homes must be posted. No child care facility may give care at any one time to more children than the number specified on the license, except in emergency situations as provided in rule 0250-4-5-.12(1).~~

**Authority:** ~~T.C.A. §§ 4-5-226(b)(2); 14-10-104; 37-1-603; 37-1-612; 37-5-101; 37-5-105; 37-5-106; and 37-5-112(a).~~ **Administrative History:** ~~Original rule certified June 10, 1974, Repeal and new rule filed April 4, 1979, effective May 21, 1979. Amendment filed March 6, 1980; effective April 20, 1980. Repeal and new rule filed December 30, effective February 13, 1987. Rule assigned a new control number, removed and renumbered from 1240-4-5-.01 filed and effective March 25, 1999.~~

**0250-04-05-.11 REQUIREMENTS FOR WILDERNESS CAMPS.** ~~Wilderness Camps must comply with the standards set forth in this section in lieu of sections 0250-4-5-.09 (Physical Facilities and Appendices A and B.)~~

~~(1) — Campsite. All sites selected for the purpose of a wilderness program must meet the following criteria:~~

- ~~— (a) — There must be a minimum of one acre per child.~~
- ~~(b) — The topography must be such that standing water conducive to the breeding of mosquitoes and other safety hazards is not allowed to collect.~~
- ~~(c) — Areas must be selected that prevent offensive conditions and safety hazards.~~
- ~~(d) — Debris, noxious plants, and uncontrolled weeds and brush must not be present.~~
- ~~(e) — A space to pursue appropriate recreational activities must be available.~~

~~(2) — Health and Sanitation~~

- ~~(a) — All Wilderness Camps must be approved by the Tennessee Department of Health and Environment and must meet conditions set forth in the State of Tennessee Camp Sanitation Act and its regulation (T.C.A. § 68-28-103) prior to becoming operative and annually thereafter.~~
- ~~(b) — A water supply approved by the Tennessee Department of Health and Environment prior to operation of the facility must be available. Annual inspection of this system conducted by the Tennessee Department of Health and Environment must be required thereafter.~~

~~(3) — Bathroom and Laundry Facilities~~

- ~~(a) — Bathing, handwashing, and toileting facilities must be adequately housed and approved by the Tennessee Department of Health and Environment. The facilities must be well maintained at all times. Separate facilities must be available to males and females.~~
- ~~(b) — Bathroom facilities must meet conditions set forth in the State of Tennessee Camp Sanitation Act and its regulations. T.C.A. § 68-28-103.~~
- ~~(c) — Laundry Facilities. If not otherwise provided, on sight facilities must be available and supplied with hot and cold water under pressure.~~

~~(4) — Fire Prevention~~

- ~~(a) — All Wilderness Camps must be approved by the Tennessee Department of Insurance, Fire Safety Division prior to becoming operative. Annual Fire Safety inspections in accordance with state regulations must be conducted. Documentation of each inspection must be provided.~~
- ~~(b) — The facility must have written fire safety procedures which must include provision of regular fire~~

drills and documentation of each drill.

~~(5) — Housing~~

- ~~———— (a) — All permanent buildings must meet appropriate state and local codes.~~
- ~~(b) — All habitable, common use rooms, yard areas, and pathways shall be provided with adequate lighting fixtures.~~
- ~~(c) — Temporary Housing. All housing must be approved by the Tennessee Department of Insurance, Fire Safety Division, Tennessee Department of Health and Environment and all applicable zoning codes.~~
  - ~~1. — Temporary housing must be structurally sound, sanitary, and provide protection to the occupants against the elements.~~
  - ~~2. — Housing shall have floor surfaces constructed to prevent the entrance of ground and surface water.~~
  - ~~3. — An upper story, attic, or loft shall not be used for sleeping.~~
  - ~~4. — Sleeping areas shall be protected against admittance of flies and mosquitoes.~~
  - ~~5. — Bedding provided at the campsite shall be clean and sanitary.~~
  - ~~6. — Linens shall be changed as often as required for cleanliness and sanitation, but not less frequently than once a week.~~
  - ~~7. — Adequate personal storage areas shall be available for each resident.~~
  - ~~8. — Males and females shall not share the same sleeping unit.~~
  - ~~9. — Counselors are permitted to sleep in housing with residents but each temporary housing unit must be limited to 6 persons.~~
- ~~(d) — Permanent Structures. Permanent structures must be provided for infirmary purposes, administrative purposes and must serve as a refuge in hazardous conditions. They must meet requirements set forth by the Tennessee Department of Insurance, Fire Safety Division and the Tennessee Department of Health and Environment.~~

**Authority:** ~~T.C.A. §§ 4-5-226(b)(2); 14-10-104, 37-1-603; 37-1-612; 37-5-101; 37-5-105; 37-5-106; and 37-5-112(a).~~ **Administrative History:** ~~Original rule certified June 10, 1974, Repeal and new rule filed April 4, 1979, effective May 21, 1979. Amendment filed March 6, 1980; effective April 20, 1980. Repeal and new rule filed December 30, effective February 13, 1987. Rule assigned a new control number, removed and renumbered from 1240-4-5-.01 filed and effective March 25, 1999.~~

**~~0250-04-05-.12 REQUIREMENTS FOR EMERGENCY SHELTER CARE.~~** ~~The general requirements which pertain to the care of children prescribed under the other sections of these standards shall be met with the following exceptions:~~

- ~~(1) — 0250-4-5-.06(1)(b) Emergency Capacity. It is allowable for an agency to exceed its licensed capacity in cottages, in an emergency situation when a resident seeks admission during those hours when traditional social agencies are not in operation and for the agency to provide sanctuary while plans are made to reduce the number of children to within the agency maximum. In these cases, the emergency provision shall not allow for exceeding the maximum capacity of the cottage, by greater than 25% of its licensed capacity for not more than seven (7) days of the month. It is essential in all cases that adequate sleeping facilities be provided for all children in the agency.~~
- ~~(2) — 0250-4-5-.06(1)(c) Children under 5 years of age may be served in emergency shelter care.~~
- ~~(3) — 0250-4-5-.06(3) 7. Roles, responsibilities of all involved parties are not required to be set forth nor is an~~

explanation of parental rights required upon emergency placement; however, if placement exceeds 30 days, provisions of the Foster Care Review Law must be met. (Refer to Appendix C).

- (4) ~~0250-4-5-.07(6).~~ For children coming into emergency care, an interval health history must be completed immediately. These children must have a physical examination within five (5) working days of the emergency placement.

**Authority:** ~~T.C.A. §§ 4-5-226(b)(2); 14-10-101 through 14-10-130; 37-1-603; 37-1-612; 37-5-101; 37-5-105; 37-5-106; and 37-5-112(a).~~ **Administrative History:** ~~Original rule certified June 10, 1974, Repeal and new rule filed April 4, 1979, effective May 21, 1979. Amendment filed March 6, 1980; effective April 20, 1980. Repeal and new rule filed December 30, effective February 13, 1987. Rule assigned a new control number, removed and renumbered from 1240-4-5-.01 filed and effective March 25, 1999.~~

## **0250-04-05-.13 APPENDICES**

### **APPENDIX A LIFE SAFETY CODE 101**

#### **Section 11-1. General Requirements**

##### **11-11. Occupant Load and Exit Capacity**

##### **11-111. Occupant Load**

- 11-111\* The occupant load of residential occupancies in number of persons for whom exits are to be provided except in 1- and 2- family dwellings shall be determined on the basis of 1 person per 200 square feet gross floor area, or the maximum probable population of any room or section under consideration, whichever is greater. The occupant load of any open mezzanine or balcony shall be added to the occupant load of the floor below for the purposes of determining exit capacity.

##### **11-112. Capacity of Exits**

- 11-1121. Exits, arranged as specified elsewhere in this Section of the Code, shall be sufficient to provide for the load in numbers of persons as determine din accordance with 11-11-11, on the following basis:

- (a) Doors, including those 3 risers or 24 inches above or below ground level. Class-A ramps and horizontal exits — 100 persons per unit of exit width.
- (b) Stairs and other types of exits not included in (a) above — 75 persons per unit of exit width.

##### **11-113. Maintenance of Exits.**

- 11-1131. No door in any means of egress shall be locked against egress when the building is occupied.

#### **SECTION 11-14. Dormitories**

##### **11-41. General**

- 11-4111. Any dormitory complying with all the requirements for hotels may be accepted as such in which case the following provisions of Section 11-4 will not be applicable.

- 11-4112. Any dormitory divided into suites of rooms, with 1 or more bedrooms opening into a living room or study which has a door opening into a common corridor serving a number of suites, shall be classed as an apartment building. As such, the dormitory shall be subject to all requirements of Section 11-3, and the following provisions of Section 11-4 will not be applicable.

- Exception: The requirements of 11-4331 shall apply.

~~11-42. Exit Details~~

~~11-421 Types and Capacity of Exits~~

~~11-4211. Exits of the same types and capacities are required for hotels (see 1-22) shall be provided~~

~~Exception: Each street floor door shall be sufficient to provide 1 unit of exit width for each 50 persons capacity of the street floor, plus 1 unit for each unit of required stairway width discharging through the street floor.~~

~~11-4212. Travel distance, access to exits, lighting and signs in dormitories shall comply with the following:~~

~~11-4221. Exits shall be so arranged that it will not be necessary to travel more than 100 feet from any point or 150 feet in a building protected by automatic sprinklers in accordance with section 6-4, to reach the nearest outside door or stair, nor to traverse more than a 1-story flight of inside, unenclosed stairs.~~

~~11-425. Access to Exits~~

~~11-4251. Any dormitory not otherwise covered under 11-41-11 and 11-4112 shall have exits so arranged that from any sleeping room or open dormitory sleeping area there will be access to 2 separate and distinct exits in different directions with no common path of travel.~~

~~Exception: One means of exit may be accepted where the room or space is subject to occupancy by not more than 10 persons and has a door opening directly to the outside of the building at street or ground level or to an outside stairway.~~

~~11-424. Lighting and Signs.~~

~~11-4241. Every dormitory shall have lighting in accordance with Section 5-10.~~

~~11-4242. Any dormitory, subject to occupancy by more than 100 persons, shall have emergency lighting in accordance with Section 5-10 and exit signs in accordance with Section 5.11.~~

~~11-43. Protection~~

~~11-431. Protection of Vertical Openings~~

~~11-4311. Every exit stair and other vertical opening shall be enclosed or protected in accordance with Section 6-1.~~

~~Exception No. 1: In existing buildings not more than two stories in height or any type of construction, unprotected openings may be permitted by the authority having jurisdiction if the building is protected by automatic sprinklers in accordance with Section 6-4.~~

~~Exception No. 2: If every sleeping room or area has direct access to an outside exit without the necessity of passing through any corridor or other space exposed to any unprotected openings may be permitted by the authority having jurisdiction.~~

~~11-432. Interior Finish~~

~~11-4321. All interior finish of dormitories shall be Class A or B in exits, in lobbies and in corridors, and Class A, B, or C elsewhere, in accordance with Section 6-2.~~

~~11-433. Alarm Systems~~

~~11-4331. Every dormitory shall have a manual fire alarm system in accordance with Section 6-3.~~

~~Exception No. 1: Buildings equipped with an automatic sprinkler system in accordance with Section 6-4.~~



- ~~Exception No. 2: Buildings equipped with an automatic fire detection system in accordance with Section 6-3.~~
- ~~11-44. Building Service Equipment~~
- ~~11-441. Air Conditioning and Ventilation~~
- ~~11-4411. Every air conditioning installation shall comply with Chapter 7.~~
- ~~11-4412. Transoms shall not be installed in partitions of sleeping rooms in new buildings. In existing buildings transoms shall be fixed in the closed position and shall be covered or otherwise protected to provide a fire-resistance rating at least equivalent to that of the wall in which they are installed.~~

## **APPENDIX B**

### **ENVIRONMENTAL STANDARDS FOR CHILD CARE INSTITUTIONS**

**(A) Food Sanitation** — Food service under a child-caring facility shall be considered a single food service operation whether operated as a central dining facility or in multiple units of that facility.

Facilities shall comply with state, and local food service codes, or regulations where applicable; otherwise the following standards shall be met for food sanitation:

- ~~(1) All food shall be from sources approved or considered satisfactory by the health authority. The use of hermetically sealed containers (home canned food) is prohibited.~~
- ~~(2) All milk and fluid milk products including dry milk and dry milk products shall be from a Grade A pasteurized source.~~
- ~~(3) Raw fruits and vegetables shall be washed before being cooked or served.~~
- ~~(4) Poultry, poultry stuffings, stuffed meats and stuffings containing meat shall be cooked to heat all parts of the food to at least 165°F with no interruption of the cooking process. Pork and any food containing pork shall be cooked to heat all parts of the food to at least 150°F.~~
- ~~(5) If a family style feeding process is used at a facility, all leftover food from the eating table shall be discarded. Milk and food used in family style feeding shall not be placed on the dining table longer than 15 minutes prior to beginning of meal. Food intended for family style feeding that has not been placed on the dining table and maintained at acceptable temperatures may be used at another meal, provided it is covered, refrigerated properly, reheated properly and used promptly.~~
- ~~(6) Potentially hazardous foods requiring cold storage shall be maintained at 45°F or below, and accurate thermometers shall be kept in the refrigerators. Potentially hazardous foods requiring hot storage shall be at an internal temperature of 140°F or above. Frozen foods shall be maintained at a temperature of 10°F or below. Thermometers are required in all freezers and all other cold storage equipment.~~
- ~~(7) Milk and other potentially hazardous foods shall be kept in the proper temperature ranges, and be protected properly, except during necessary periods of preparation.~~
- ~~(8) All foods including dry foods shall be stored in a manner to prevent possible contamination, and permit easy cleaning of the storage area. Containers or food shall be stored a minimum of 6 inches above the floor or on moveable dollies.~~
- ~~(9) All food shall be protected from contamination during storage, preparation, transportation and serving.~~
- ~~(10) No poisonous or toxic materials except those required to maintain sanitary conditions and for sanitization purposes may be used in the food service operation. Poisonous and toxic materials shall be identified, stored and used only in such manner, and under such conditions as will not contaminate food or constitute a hazard to population of a facility.~~



- ~~(11) — All equipment and utensils shall be so designed and constructed of such material and workmanship as to be smooth, easily cleanable, and durable. Equipment and utensils shall be in good repair.~~
- ~~(12) — The food-contact surfaces of equipment and utensils shall be easily accessible for cleaning, and be of nontoxic, corrosion resistant, and non-absorbent materials.~~
- ~~(13) — All equipment shall be installed and maintained to facilitate the cleaning thereof, and of all adjacent areas.~~
- ~~(14) — All eating and drinking utensils shall be thoroughly cleaned and sanitized after each use with the exception of single service utensils which shall be discarded following use.~~
- ~~(15) — Single service articles shall be made from nontoxic materials and shall be stored, handled and dispensed in a sanitary manner.~~
- ~~(16) — All kitchenware and food-contact surfaces of equipment, exclusive of cooking surfaces of equipment, used in the preparation or serving of food or drink, and all food storage utensils, shall be thoroughly cleaned and sanitized after each use.~~
- ~~(17) — Cooking surfaces of equipment shall be cleaned at least once a day.~~
- ~~(18) — All utensils and food-contact surfaces of equipment used in the preparation, transportation, service display, or storage of potentially hazardous food shall be thoroughly cleaned and sanitized after each use.~~
- ~~(19) — Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of material and in such repair as to be easily maintained in a clean and sanitary condition.~~
- ~~(20) — All food-contact surfaces of equipment and utensils shall be stored and handled by methods that protect them from contamination by splash, dust and other means.~~
- ~~(21) — In facilities defined by the Department of Children's Services as existing, a two compartment sink can be used for washing and rinsing utensils, provided an additional container or sink be use for sanitization of the utensils. For facilities defined by the Department of Children's Services as new, a three compartment sink is required when manual dishwashing procedures are utilized for washing, rinsing and sanitization of utensils.~~
- ~~———— Domestic type dishwashing machines are acceptable provided the temperature at the utensil surface be 160°F after the end of one complete cycle. If 160°F is not obtained at the end of one complete cycle, an additional sanitizing rinse for utensils shall be provided in a separate container or sink.~~
- ~~———— Facilities which do not have adequate and effective facilities for cleaning and sanitizing utensils shall use single-service articles.~~

**(B) — Water Supply**

- ~~(1) — The drinking water supply serving child care facilities shall be from a source approved by the health authority having jurisdiction.~~
- ~~(2) — There shall be sufficient hot and cold water under pressure to supply the daily needs of a child care facility.~~
- ~~(3) — An approved drinking fountain or individual single service papercups shall be provided in rooms or adjacent to rooms regularly occupied by the residents.~~

~~(4) — All equipment shall be clean and in good repair.~~

**(C) — Sewage Disposal and Plumbing**

- ~~(1) — A private sewage disposal system at a facility shall be operating satisfactorily.~~
- ~~(2) — When the private sewage disposal system at an existing facility fails and where a public sewage system is available, the facility shall be connected.~~
- ~~(3) — All plumbing shall be installed to prevent the possibility of cross connection, back siphonage, or sewage leaks.~~

**(D) — Solid Waste**

- ~~(1) — An adequate number of suitable storage containers approved by local health authorities shall be provided and shall be kept clean and in good repair.~~
- ~~(2) — Garbage and refuse storage areas shall be kept clean.~~
- ~~(3) — Storage containers, other than bulk, shall be secured properly to prevent spillage.~~
- ~~(4) — Garbage deposited in outside bulk storage shall be in flytight containers (example, plastic bags).~~
- ~~(5) — All garbage shall be removed from the building daily.~~
- ~~(6) — Garbage and rubbish shall be collected from the premises at least twice weekly.~~
- ~~(7) — At facilities where twice weekly collection is not provided, all garbage and rubbish shall be disposed of in a manner acceptable to the health authority having jurisdiction (supplement collection by individual hauling, acceptable burying, etc.)~~
- ~~(8) — Combustible rubbish may be burned, provided such burning meets all local and state laws and regulations relative to incinerators, incineration, and air pollution.~~

**(E) — Toilets, Handwashings and Bathing**

- ~~(1) — One flush toilet, one handwashing facility and one tub or shower, for every four (4) children shall be provided.~~
- ~~(2) — All facilities shall be approved, in good repair and clean.~~
- ~~(3) — A tightly covered container with plastic liner shall be used for diaper disposal and stored inaccessible to children. This container shall be emptied a minimum of twice daily by closing the liner and disposing of it into an outside garbage receptacle.~~
- ~~(4) — There shall be soap, hot and cold water under pressure, and individual towels, provided wherever a handwashing lavatory is located.~~
- ~~(5) — Personnel shall exercise good handwashing practices following diaper changes, the assistance of children in toilet use and personal toileting.~~
- ~~(6) — Proper adult supervision shall be exercised for use of toilet and handwashing facilities.~~
- ~~(7) — Toilet tissue shall be provided on tissue holder at each commode.~~
- ~~(8) — Handwashing and bathing water for children shall be provided under pressure at a temperature of at least 90°F and not greater than 120°F without manual adjustment of the faucets.~~

**(F) — Buildings**

- ~~(1) — STRUCTURE~~

- (a) ~~The building foundation, roof, walls, and window frames shall be free of visible cracks and unsealed openings to prevent entrance of insects and rodents.~~
- (b) ~~Buildings shall be kept clean, in good repair and painted when necessary.~~
- (c) ~~Gutters and down spouts shall be kept clean and in good repair.~~

~~(2) MATERIALS~~

- (a) ~~Facilities having any presence of friable asbestos shall have a written plan approved by Department of Health and Environment for providing acceptable measures of control. The plan is to include a time frame not to exceed 5 years. This plan is to be on file with the Department of Health and Environment.~~

~~(3) FLOORS~~

- ~~(a) Floors shall be clean, and in good repair.~~

~~(4) WALLS AND CEILINGS~~

- ~~(a) Walls and ceilings shall be kept clean and in good repair.~~

~~(5) DOORS AND WINDOWS~~

- (a) ~~All doors and windows shall be kept clean and in good repair (this includes screens when used).~~
- (b) ~~Windows shall be openable unless the room is air conditioned.~~
- (c) ~~All windows used for ventilation shall be screened unless building is air conditioned.~~

~~(6) BEDDING~~

- (a) ~~Where provisions are made for staying at a facility overnight, each occupant shall be provided an individual bed with acceptable mattress and waterproof cover, springs, clean linen, and clean cover.~~
- (b) ~~Where children are kept at least six hours but not overnight, individual cots or other approved bedding with minimum 2-inch thickness shall be provided and kept clean and in good repair. Clean covers are also necessary.~~
- (c) ~~Clean individual floor mats for napping may be used instead of cots. Spacing shall be adequate to promote freedom of movement (approximately two (2) feet between cots and mats).~~

~~(7) LIGHTING~~

- (a) ~~Natural and/or artificial lighting shall be distributed throughout the child care facility at the following ratio:~~
  - ~~(1) Classroom and playroom — 25 foot candles.~~
  - ~~(2) Food preparation surfaces, food service equipment or utensil washing work levels, food service utensil and equipment, storage areas and in lavatory and toilet areas — 20 foot candles.~~
  - ~~(3) Walk-in refrigeration units, dry food storage areas, other storage areas, and halls — 10 foot candles.~~

~~(8) HEATING AND VENTILATION~~

- (a) ~~All rooms used by children shall be heated by a system capable of maintaining a temperature of 68°F.~~
- (b) ~~When the outside temperature is 65°F or below, the temperature at child height within the facility shall be no lower than 65°F nor higher than 75°F.~~
- (c) ~~Stoves, hot radiators, steam and hot water pipes or other heated objects and electrical outlets in rooms used by children shall be adequately protected by screens, guards, insulation, or any suitable means that will protect children from coming in direct contact with them.~~
- (d) ~~Heat and ventilation units shall be clean and in good repair.~~

**(G) ~~Insect and Rodent Control~~**

- ~~(1) The facility shall be reasonably free from flies, other insects and breeding sites.~~
- ~~(2) Screens which are approved and in good repair shall be provided for all doors and windows used for ventilation purposes.~~
- ~~(3) When air conditioning is used, doors and windows shall be kept closed.~~
- ~~(4) The facility shall be free of rodents.~~
- ~~(5) There shall be no rodent harborage areas.~~
- ~~(6) Proper supervision and caution shall be exercised according to label directions when applying approved insecticides and rodenticides.~~

**(H) ~~Safety~~**

- ~~(1) Pesticides, medicines, polishes, disinfectants, and cleaning compounds shall be stored in a manner approved by the local health authority.~~
- ~~(2) Sturdy safety rails shall be provided for ramps and steps where there are three or more risers.~~
- ~~(3) Bathtubs, if used, shall be provided with safety strips or mats.~~
- ~~(4) Glass in hazardous locations in the facility shall be shielded when safety glass is not used. Broken glass objects shall not be permitted in any part of the building or on the grounds.~~
- ~~(5) All furniture shall be of durable construction, free of sharp projecting corners or surfaces and in good repair.~~
- ~~(6) Grounds shall be free of hazards that are likely to cause falls.~~
- ~~(7) Buildings and grounds shall be free of any unprotected, abandoned well, cistern, refrigerator or similar hazards.~~
- ~~(8) Fencing, or other acceptable barriers, shall be provided for hazardous drainage ditches, cliffs, bluffs or other similar hazards.~~
- ~~(9) Grounds shall have adequate drainage.~~
- ~~(10) Adequate barriers, such as fencing, shall be provided and supervision exercised to prevent children from running on driveways, streets, or highways where a traffic hazard exists.~~
- ~~(11) All play equipment shall be safe and in good repair.~~

**(I) ~~Swimming Pool~~**

- (1) ~~Facilities located in municipalities or counties that have an adopted swimming pool ordinance or regulations shall comply with said ordinance or regulation, where applicable.~~
- (2) ~~Facilities located in municipalities or counties that do not have an adopted swimming pool ordinance or regulation shall comply with the Hotel, Food Service Establishment and "Public Swimming Pool Inspection Act of 1985", where applicable.~~
- (3) ~~Facilities utilizing a swimming pool on-site or at another location shall be assured of an approve lifeguard, or the number of guards required, on duty.~~

**(J) ~~Control of Animals~~**

- (1) ~~If live animals or birds are kept in classrooms as pets, they shall be caged; cages shall be kept clean. (Turtles shall not be kept as pets because (a) a proper environment is elaborate and difficult to achieve and (b) they are carriers of salmonella.)~~
- (2) ~~In all cases animals and birds shall not be allowed in areas of food storage, preparation, or service.~~
- (3) ~~Pets requiring vaccination against rabies shall be currently protected, evidence of which shall be on file.~~

**APPENDIX C  
PROVISION OF THE FOSTER CARE REVIEW LAW**

**(a) ~~Preparation of the Plan~~**

1. ~~This plan must be prepared within 30 days of placement. The date of placement is defined as the original date on which the child is physically placed in foster care.~~
2. ~~The plan must include a goal for each child of;~~
  - ~~(i) Return of the child to the parent~~
  - ~~(ii) Adoption~~
  - ~~(iii) Permanent foster care~~
  - ~~(iv) Placement of the child with relatives~~
  - ~~(v) Emancipation by marriage, court order, or the age of majority.~~
3. ~~The plan shall include a statement of responsibilities between the parents, agency, and caseworker of the agency. The responsibilities of each party should be specific and related to the achievement of the specified goal.~~
4. ~~The initial plan must include tire definitions of abandonment contained in sections 36-1-102 (1) and 37-1-102 (1) and the criteria and procedures for termination of parental rights. Each party shall sign the statement and be given a copy of it.~~
5. ~~Substantial noncompliance by the parent with the statement of responsibilities in the plan provides grounds for the termination of parental rights notwithstanding other statutory provisions for termination of parental rights and notwithstanding the failure of the parent to sign or to agree to such statement if the court finds that the parent was informed of its contents, and that the requirements of the statement are reasonable and are related to remedying the conditions which necessitated foster care placement.~~
6. ~~At a hearing in which a court orders a child to be placed in foster care; the judge determines whether a foster care plan has been prepared and whether the statement of responsibilities has been agreed upon by the parties. If a statement has been agreed upon by the parties, the court~~

shall review it and approve it if the court finds it to be in the best interest of the child. If a plan has not been prepared or parties have not agreed to a statement of responsibilities, the court may continue the hearing for such time, not to exceed 30 days as may be necessary to give the parties an opportunity to attempt to agree upon a suitable plan, which may then be approved by the court without a further hearing if the court finds the plan to be in the best interest of the child.

7. ~~Out of state children are subject to the same review as in state children. The court of jurisdiction will be the county in which the child is placed.~~
- (b) ~~Disposition of the Plan. The plan is to be submitted to the juvenile court having jurisdiction over the child. If no juvenile court has jurisdiction over the child, then the plan is to be submitted to the juvenile court in the county in which the child is placed.~~
- (c) ~~Annual Update. All plans are subject to modification and shall be reevaluated and updated at least annually except when a long term agreement has been made and approved by the court.~~
- (d) ~~Foster Care Reports~~
1. ~~in addition to the required Foster Care Plan mentioned above, each agency shall submit to the appropriate court or foster care review board a report for each child in its care on progress made in achieving the goals set forth in the plan.~~
  2. ~~The agency must submit a monthly listing of cases to the court to be reviewed. Each child must be reviewed no less often than every 6 months by either the board or the court.~~
  3. ~~Such reports shall be prepared by the agency having custody of the child within six months of the date of foster care placement and no less frequently than every six months thereafter for as long as the child remains in foster care.~~
  4. ~~Unless parental rights have been surrendered or terminated, a copy of this report shall be provided to the parent(s) of the child at the time it is provided to the court or board.~~
  5. ~~Parents must be notified of the date, place, and time of the hearing.~~
  6. ~~A report of the findings of the hearing or review must be provided to the parent(s).~~
- (e) ~~Monitoring of Foster Care Plans and Reports. It shall be the responsibility of all licensed or approve child-caring agencies to insure that foster care plans and reports are prepared and submitted as directed by state law.~~
- (f) ~~18 Month Hearing~~
1. ~~In addition to the above mentioned foster care plans and reports, the agency must request a hearing within 18 months of the date of foster care placement for each child in foster care.~~
  2. ~~Except in cases where the court has approved a long term foster care agreement, as long as the child remains in foster care, subsequent hearings must be requested no less frequently than every 18 months thereafter for all children except those to whom the parental rights of both parents have been surrendered or terminated and no less frequently than every thirty-six (36) months thereafter for those children to whom such parental rights have been surrendered or terminated.~~
- (g) ~~Cessation of Review. Foster care shall cease at such time as the child is placed with an individual or individuals for the purpose of the child's adoption by the individual or individuals or at such time as a petition to adopt is filed, whichever occurs first, or at such time as a child is returned to or placed in the care of a parent or relative, emancipated or reaches the age of majority.~~

#### **APPENDIX D FOOD AND NUTRITION**

The following meal patterns and serving sizes will furnish the child's daily dietary needs. Unless changes or

adjustments in these patterns are made with the assistance of a nutritionist, dietitian, or physician, they will not be considered as meeting the Recommended Daily Dietary Allowances.

I	Breakfast	Serving Size		
	Meal Pattern	Preschool	6-12 Years	13-18 years
	Meat and/or Alternate			
	One of the following or combinations			
	To give equivalent quantities:			
	Meat	1-2 ounces	2 ounces	3 ounces
	Cheese	1-2 ounces	2 ounces	3 ounces
	Egg	1	1	1
	Cereal	¼	1/2 cup	1/2 cup 1 cup
	Fruit, full strength fruit or vegetable juice (may be served at morning snack)	1/3 1/2 cup	1/2 cup	1/2 cup 1 cup
	Bread	1 slice	1 slice	1 3 slices
	Fortified Margarine or butter	1 teaspoon	1 teaspoon	1 2 teaspoons
	Milk—may be on cereal or to drink	3/4 cup	1 cup	1 1 ½ cups
II.	Mid-day and/or Evening Meals	Serving Size		
	Meal Pattern	Preschool	6-12 Years	13-18 years
	Meat and/or Alternate			
	One of the following or combinations			
	To give equivalent quantities:			
	Meat	1-2 ounces	2 ounces	3 ounces
	Cheese	1-2 ounces	2 ounces	3 ounces
	Egg	1	1	1
	Cooked Dried Beans or Peas	2 teaspoons	3-4 tablespoons	4-5 tablespoons
	Peanut Butter	2 tablespoons	3-4 tablespoons	4-5 tablespoons
	Vegetable and/or Fruit (see IV.)	1/2 cup	3/4 cup	1 — 1 1/2 cup
	Bread	1/2 – 1 slice	1 slice	1 3 slices
	Fortified Margarine or butter	1 teaspoon	1 teaspoon	1 2 teaspoons
	Milk	3/4-1 cup	1 cup	1 1 ½ cups

Additional foods to complete the meal, such as other vegetables, rice, macaroni, noodles, or spaghetti may be added and/or simple desserts such as fruit, puddings, ice cream, fruited gelatin desserts or custards may be used.

#### Footnotes for I. and II.

*When a range is given, the smaller amounts are suggested for girls and the larger amounts for older boys. An amount midway between the amounts shown is suggested for younger boys.*

*Bacon has very little nutritive value and should not be used as a meat and/or alternate.*

*When egg is served as a main dish, use in addition a half portion of meat or other meat alternate for children, except for preschool children.*

*Or a serving of biscuits, muffins, rolls, cornbread, etc. made of whole grain or enriched meal or flour.*

*May be used on bread or in food preparation.*

*Dried beans, peas, or peanut butter should not be used more than one or two times a week as an alternate.*

*Should include at least two kinds.*

III. **Snacks**—Due to the small appetite and small volume of food consumed by preschool children, snacks for preschool children should be offered in accordance to the snack pattern below. Due to the need for adequate fluid and calorie intake, snacks are recommended for children of 6-18 years. Caution should be exercised in serving snacks to overweight children. Generally, some foods that are a part of the standard meal pattern can be removed from that pattern and served at snacktimes. *Fluid intake between meals for all children should be provided.*



Patterns	Preschool	6-12 Years	13-18 years
<b>Morning</b>			
Fruit or Vegetable			
Or Full-Strength Fruit			
Or Milk V. cup	1/2 1 cup	1/4 1 cup	1 1 1/2 cups
Bread Product	1/2 1 slice	1 slice	1 3 slices
<b>Afternoon</b>			
Fruit or Vegetable			
Juice or Milk	1/2 cup	1/2 1 cup	1 1 1/2 cups
Bread Product	1/2 1 slice	1 slice	1 3 slices
<b>Bedtime</b>			
Fruit or Vegetable			
Juice or Milk	1/2 cup	1/2 1 cup	1 1 1/2 cups
Bread Product	1/2 1 slim	1/2 slice	1" slices

Snacks provided should be simple, nourishing, and planned as part of the day's food allowance. Carbonated drinks, fruit aides, synthetic fruit flavored drinks, and candy should not be served as snack foods. Real juice will be labeled "juice" and not as fruit drink or juice drink.

- IV. Food Sources of Vitamins A grid C grid Iron To help meet the daily nutritional needs, meals and snacks should include iron-rich food sources as often as possible, a vitamin C-rich food every day, and a vitamin A-rich food three or more times a week.

#### FOOD SOURCES OF IRON

(1 or more daily)

##### High Iron Cereals

Buc Wheats	Farina	Malt-O-Meal
Concentrate	Kabooms (sugar-coated)	Product 19
Cream of Wheat	King Vitaman (sugar-coated)	Total

##### Other Iron-Rich Foods

Dried Beans & Peas	Kidney	Spinach
Enriched Breads	Lean, Red Meats	Mustard and Turnip Greens
Green Lime, Beans	Liver	Raisins and other dried fruits
Heart	Liverwurst	

#### Footnotes for III.

When a range is given, the smaller amounts are suggested for girls and the larger amounts for older boys. An amount midway between the amounts shown is suggested for younger boys.

May be crackers, simple cookies (without frosting or filling), biscuits, muffins, rolls, cornbread, small sandwiches, etc. made of whole grain or enriched meal or flour.

Foods, in addition to these patterns, may also be served, depending on the individual's needs. Foods, such as fruit, sandwiches, ice cream, milk drinks, puddings, fruited gelatin, etc., may be added for supplemental nutrition.

#### FOOD SOURCES OF VITAMIN A

(1 or more times per week)

Acorn, Butternut or	Broccoli	Chard
Hubbard Squash	Cantaloupe	Collard, Dandelion, Turnip or
Apricots or Nectar	Carrots	Mustard Greens
Green Pepper	Pumpkin	Spinach
Kale	Soups (commercially prepared)	Sweet Potatoes
Liver	Vegetable Beef or	Tomatoes or Juice
Yams	Vegetarian Vegetable	

#### FOOD SOURCES OF VITAMIN C

(3 serving every day)



<del>Broccoli</del>	<del>Cauliflower</del>	<del>Oranges or Juice</del>
<del>Brussels Sprouts</del>	<del>Green Pepper</del>	<del>Strawberries</del>
<del>Cabbage (raw)</del>	<del>Spinach</del>	<del>Tangerines or Juice</del>
<del>Collard, Kale, Mustard, or</del>	<del>Grapefruit or Juice</del>	<del>Tomatoes or Juice</del>
<del>Turnip Greens</del>		

~~**Authority:** T.C.A. §§4-5-226(b)(2); 14-10-104(5); 14-10-124; 36-102(1); 37-5-101; 37-5-105; 37-5-106; 37-5-112(a); 37-202(1) and 37-1501 through 37-1511. **Administrative History:** Original rule filed December 30, 1986; effective February 13, 1987. Rule assigned a new control number, removed and renumbered from 1240-4-5-.13 filed and effective March 25, 1999.~~