

MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES

Division of Child Welfare Licensing

Child Caring Institution Rule Interpretations

PART 1. GENERAL PROVISIONS

R 400.4101 Definitions.

Rule 101. As used in these rules:

- (a) *“Accredited college or university” means a college or university recognized by the United States Department of Education.*
- (b) *“Act” means 1973 PA 116, as amended, being §§ MCL 722.111 to 722.128, and known as the child care organization licensing act.*
- (c) *“Audit” means a review done by an auditor that conforms with generally accepted accounting principles.*
- (d) *“Case record” means the individual file kept by an institution concerning a child who has been placed at the institution.*
- (e) *“Chief administrator” means the person designated by the licensee as having the onsite day-to-day responsibility for the overall administration of a child caring institution and for assuring the care, safety, and protection of residents.*
- (f) *“Chief administrator designee” means a person above the level of the supervisor who approved an action, and who was not involved in the decision being reviewed.*
- (g) *“Child caring institution,” hereinafter referred to as “institution” or CCI, means an institution as defined in section 1 of 1973 PA 116, MCL 722.111.*
- (h) *“Child placing agency” means an agency as defined in section 1 of 1973 PA 116, MCL 722.111.*
- (i) *“Children’s therapeutic group home” means a children’s therapeutic group home as defined in section 1 of 1973 PA 116, MCL 722.111.*
- (j) *“Corporal punishment” means hitting, paddling, shaking, slapping, spanking, or any other use of physical force as a means of behavior management.*
- (k) *“Detention facility” means an institution that primarily provides care and supervision for youth pending adjudication for status or criminal offenses or pending placement in a treatment facility post-adjudication.*
- (l) *“Department” means the Michigan Department of Health and Human Services.*
- (m) *“Developmentally disabled” means an individual who has an impairment of general intellectual functioning or adaptive behavior which meets **all of the** following criteria:*
 - (i) *It originated before the person became 18 years of age.*
 - (ii) *It has continued since its origination or can be expected to continue indefinitely.*

(iii) *It constitutes a substantial burden to the impaired person's ability to perform normally in society.*

(iv) *It is attributable to 1 or more of the following:*

(A) *Significant cognitive impairment, cerebral palsy, epilepsy, or autism.*

(B) *Any other condition of a person found to be closely related to significant cognitive impairment because it produces a similar impairment or requires treatment and services similar to those required for a person who is significantly cognitively impaired*

(n) *"Direct care worker" means a person who provides direct care and supervision of children in an institution.*

(o) *"Human behavioral science" means a course of study producing a degree from an accredited college or university in any of the following:*

(i) *Social work.*

(ii) *Psychology.*

(iii) *Guidance and counseling.*

(iv) *Consumer or community services.*

(v) *Criminal justice.*

(vi) *Family ecology.*

(vii) *Sociology.*

(p) *"Juvenile justice youth" means a youth pending adjudication for status or criminal offenses or a youth who has been adjudicated under section 2(a) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2a, or section 1 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1.*

(q) *"License" means a license issued by the department to a non-governmentally operated institution or a certificate of approval issued by the department to a governmentally operated institution indicating that the institution is in compliance with these rules.*

(r) *"Licensee" means the agency, association, corporation, firm, organization, person, partnership, department, or agency of the state, county, city, or other political subdivision **that** has submitted an original application for licensure or approval or has been issued a license or certificate of approval to operate a child caring institution.*

(s) *"Licensee designee" means the individual who is authorized by the licensee, board of directors, or the governing body for a public institution, to act on behalf of the corporation or organization on licensing matters.*

(t) *"Licensing authority" means the administrative unit of the department **that** has the responsibility for making licensing and approval recommendations for an institution.*

(u) *"Medication" means prescription and nonprescription medicines.*

(v) *"Misconduct" is conduct by a resident that affects the safety and security of residents, staff, or the community.*

(w) *"Open institution" means an institution or facility, or portion thereof, which is used to house residents and which is not locked against egress, except for an approved behavior management room.*

(x) "Parent" means biological parent, including custodial and non-custodial parent, adoptive parent, or guardian.

(y) "Personal restraint", also referred to as resident restraint, means personal restraint as defined in section 2b of 1973 PA 116, MCL 722.112b.

(z) "Protection" means the continual responsibility of the licensee to take reasonable action to ensure the health, safety, and well-being of a resident while under the supervision of the licensee or an agent or employee of the licensee, including protection from physical harm, humiliation, intimidation, and social, moral, financial, and personal exploitation.

(aa) "Resident" means a child who is admitted to and resides in an institution.

(bb) "Seclusion" means seclusion as defined in section 2b of 1973 PA 116, MCL 722.112b.

(cc) "Seclusion room" means a room or area approved for the confinement or retention of a single resident. The door to the room may be equipped with a security locking device which operates by means of a key or is electrically operated and has a key override and emergency electrical backup in case of a power failure.

(dd) "Secure institution" means an institution, or portion thereof, other than a seclusion room, used to house that is secured against egress from the building.

(ee) "Serious injury" means any significant impairment of the physical condition of the minor child as determined by qualified medical personnel. This includes, but is not limited to, burns, lacerations, bone fractures, substantial hematoma, and injuries to internal organs, whether self-inflicted or inflicted by someone else.

(ff) "Shelter care facility" means an institution which primarily provides care for residents for assessment, short-term supportive care, or placement planning.

(gg) "Social service supervisor" means a person who supervises a social service worker.

(hh) "Social service worker" means a person who works directly with residents, their families, and other relevant individuals and who is primarily responsible for the development, implementation, and review of service plans for the resident. This definition does not prevent a team approach to service plan development and implementation.

(ii) "Staff" means a person who is employed by an institution, a volunteer for the institution, including student interns, or a person who is used by the institution to provide specific services covered by these rules.

(jj) "Terms of license" or "terms of approval" means those designations noted on an institution's license or certificate of approval for which the institution is authorized or approved. Such designations include the following:

(i) Short-term institution.

(ii) Residential treatment institution.

(iii) Secure institution.

(iv) Open institution.

(v) Age of children to be accepted for care.

(vi) Sex of children to be accepted for care.

(vii) Number of children to be accepted for care.

(viii) Effective and expiration dates.

(kk) "Treatment institution" means an institution whose primary purpose and function is to provide habilitative or rehabilitative services.

Interpretation

The Secretary of Education publishes a list of nationally recognized accrediting agencies that the Secretary determines to be reliable authorities on the quality of education or training provided by institutions of higher education and the higher education programs they accredit. The U.S. Secretary of Education also recognizes State agencies for the approval of public postsecondary vocational education and nurse education.

<http://ope.ed.gov/accreditation/> is a web site with a data base the lists accredited colleges and university.

R 400.4102 Inspection and approval of institution.

Rule 102. Residents may occupy an institution, including new construction, additions, and conversions, only after inspection and approval by the licensing authority.

Interpretation

Licensing approval includes an A rating for both environmental health and fire safety.

R 400.4103 Space and equipment requirements.

Rule 103. An institution shall provide all of the following to assure delivery of licensed services:

- (a) sufficient resident living space, as set forth in R 400.4510*
- (b) office space*
- (c) equipment to assure delivery of licensed services.*

Interpretation

Rule 510 requires single sleeping rooms to have at least 70 square feet and multi resident rooms to have 50 square feet per resident.

R 400.4104 Rules compliance.

Rule 104. (1) Before being licensed as an institution, an original applicant shall comply with 1973 PA 116, MCL 722.111 et seq. and the rules for the type of institution the applicant proposes to operate and for which compliance can be achieved prior to beginning operation and shall demonstrate intent to comply with those rules for which compliance can only be demonstrated after the institution has become fully operational.

(2) After being licensed, an institution shall, on an ongoing basis, comply with the act, child caring institution rules, and terms of the license.

Interpretation

No further interpretation is necessary.

R 400.4105 Rule variance.

Rule 105. (1) Upon written request of an applicant or licensee, the department may grant a variance from an administrative rule if there is clear and convincing evidence that the alternative to the rule complies with the intent of the administrative rule from which a variance is sought.

*(2) The department shall in its records of the department and send a signed copy the applicant or licensee. This **variance** may remain in effect for as long as the licensee continues to comply with the intent of the rule or may be time limited.*

Interpretation

No further interpretation is necessary.

R 400.4106 Original licensure; application.

Rule 106. An applicant applying for an original license shall provide documentation of all of the following:

(a) Need for the type of program the institution proposes to provide.

(b) Sufficient financial resources to meet applicable licensing rules following the issuance of the initial license.

(c) A plan of financial accounting developed in accordance with generally accepted accounting practices.

Interpretation

“Evidence of need” means that the applicant had identified need(s) to be met, has a program description, projected costs for the services to be offered, has shared this information with potential referral sources, and the referral sources have confirmed in writing that they will consider using the program. Tie-bar to Rule 109, Program statement.

Subpart (b) requires the organization to demonstrate the ability to sustain operations, including all services identified, for at least the first year. Tie-bar to Rule 108, Financing and audit.

A letter from an accounting firm stating that the organization’s plan is appropriate is one method of determining subpart (c) is in compliance. Tie-bar to Rule 108 Financing and audit.

Plan of financial accounting” means a written plan for setting up and keeping the books of the organization.

Licensing consultants are to regard government organizations as having acceptable accounting practices, barring evidence to the contrary.

R 400.4107 Deemed status.

Rule 107. (1) The department may accept, for the purpose of determining compliance with part 1 of these rules, evidence that the child caring institution is accredited by the council on accreditation or other nationally recognized accrediting body whose standards closely match state licensing regulations.

(2) The institution may request deemed status when the accreditation site inspection is less than 12 months old. Both of the following apply:

(a) When deemed status is requested, an institution shall submit a copy of the most recent accreditation report to the department.

(b) An institution shall only be eligible for deemed status if the license is on a regular status.

(3) The acceptance of accreditation in subrule (1) of this rule does not prohibit the department from conducting on-site investigations or requiring environmental health and fire safety inspections at intervals determined by the department.

Interpretation

Though the rule recognizes deemed status, any institution that is run by the department or under contract to the department is covered by the Modified Settlement Agreement must have a complete review of compliance with all rules on an annual basis.

R 400.4108 Financing and audit.

Rule 108. A licensee shall do all of the following:

(a) Obtain an annual audit of all financial accounts. Audits for nongovernmental institutions shall be conducted by an independent certified public accountant who is not administratively related to the agency.

(b) Annually develop and implement a plan to correct any deficiencies identified.

(c) Demonstrate sufficient financing to assure that proper care of residents is provided and that licensing rules are followed.

(d) Develop a budget that includes projected income and expenditures.

Interpretation

Plan of financing means the method of assuring funding for carrying out the institution's programs. A plan must identify sufficient income to properly operate the institution.

Audit means an official verification of financial accounts.

This rule is used to assure that an agency has adequate funding to provide proper care to children received.

The financing plan adopted by the organization must enable the organization to deliver identified programs subject to licensing.

An audit requires an accounting system that assures accurate and appropriate disbursement and collection.

Compliance exists when an institution:

1. Has developed an annual plan of financing.
2. Has implemented the plan.
3. Has obtained an annual audit.
4. The audit is performed by an independent Certified Public Accountant.

Institutions shall document that annual audits have been completed.

An annual audit shall be completed within the 12 months that follow the close of the accounting period.

A financial report offered as the institution's audit must bear the title "**Audit**"

The certified public accountant that performs the audit may not be affiliated with the institution.

Budgets and audits must deal with all licensed program components.

Budgets and audits must be specific to the individually licensed program, not part of an overall corporate budget and/or audit.

Licensing consultants are to regard governmental organizations as having acceptable accounting practices, barring evidence to the contrary.

R 400.4109 Program statement.

Rule 109. (1) An institution shall have and follow a current written program statement which specifically addresses all of the following:

(a) The types of children to be admitted for care.

(b) The services provided to residents and parents directly by the institution and the services provided by outside resources.

(c) Policies and procedures pertaining to admission, care, safety, and supervision, methods for addressing residents' needs, implementation of treatment plans, and discharge of residents.

(2) The program statement shall be made available to residents, parents, and referral sources.

Interpretation

(1)(a) "Types of children" means the institution has identified by age, gender, capacity, needs, and characteristics, the children to be received for care.

(b) "Services provided" means the institution has identified all services to be provided by the institution for the resident and/or parent. The institution must identify services that will be provided by outside providers and identify the providers

(c) The program statement is to identify: admission criteria for the program, what types of care and services are provided that will address the needs of the population to be served and by whom, and discharge criteria.

(2) The institution shall identify how the statement has been made available to residents, parents, and referral sources. Availability may be shown by a file document that states "Received by XXX," or by posting on a public bulletin board.

If religious training is provided the program statement shall identify how such services are delivered and how the youth may opt out of those services. Tie-bar to Rule 134, Religious/Spiritual Policy and Practices.

Noncompliance is to be cited if the program being provided is not the same program described in the institution's program statement.

Noncompliance is to be cited if the institution is serving children that are not the population of children described in the program statement.

R 400.4110 Employees qualified under prior rules.

Rule 110. An employee in a position approved before the effective date of these rules is deemed to be qualified for that position at the institution. A person appointed to a position after the date of these rules shall meet the qualifications of these rules for that position.

Interpretation

This is a “grand-person” rule and applies only to the institution where the person was employed at the time the rules became effective. These rules became effective June 8, 2015.

R 400.4111 Job description.

Rule 111. An institution shall provide a job description for each staff position that identifies rules, required qualifications, and lines of authority.

Interpretation

All people who work in the institution must have a job description, regardless of whether the job function is a regulated function.

All responsibilities for the operation of the institution are to be covered by the composite of the job descriptions.

Staff must know their job description and to whom they report.

The organization's practice must conform to the descriptions.

The organization has the responsibility to demonstrate how all the responsibilities and authorities mesh to ensure the care and protection of the residents.

An organizational chart is one way to demonstrate how all responsibilities are covered. When an organizational chart is used, the lines of authority must be clear.

R 400.4112 Staff qualifications.

Rule 112. (1) A person with ongoing duties shall have both of the following:

(a) Ability to perform duties of the position assigned.

(b) Experience to perform the duties of the position assigned.

(2) A person who has unsupervised contact with children shall not have been convicted of either of the following:

(a) Child abuse or neglect.

(b) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire.

(3) A person who has unsupervised contact with children shall not be a person who is listed on the central registry as a perpetrator of child abuse or child neglect.

Interpretation

(1) “Ongoing” means on a regular, scheduled, or planned basis. For example, duties may be for one hour per week, twice per month or a regular 40 hour work week. It does not cover one-time short-term interactions.

(a) “Ability” means a person can perform tasks assigned. Lack of ability may be judged by a one-time incident or by a pattern of action or inaction over time.

If an employee acts in a way that violates policy or procedure, even if the person initially demonstrated the ability to do the job, this is to be considered “lack of ability”.

When something occurs that is not covered by policy or procedure, and it is something that a reasonable person would understand to be inappropriate, this is to be considered a “lack of services conducive to the welfare of children”.

The licensee and chief administrator are responsible for the assessment and selection of appropriate staff and caregivers. It is not sufficient to make an assessment of compliance regarding each staff member only once at the beginning of a new assignment. An institution must have a methodology for ongoing and periodic assessment of ability to perform the assigned job.

If the function of a volunteer, student or person under contract is covered by an administrative rule, the person shall meet the requirements of the applicable rule(s).

If, as a result of a Children’s Protective Services investigation, a staff person’s name will be entered on Central Registry, this rule is to be cited.

Qualifications for the chief administrator and licensee must be evaluated by the consultant as well as by the organization. The licensing consultant is to obtain a

signed BCAL-1326 from the chief administrator and licensee/licensee designee and have PSOR, and Central Registry records checks completed. A Chief Administrator is also required to have Live-Scan fingerprinting at the time of appointment. Information from the clearances and the BCAL 1326 are maintained in the department's file for the agency, not by the agency.

R 400.4113 Employee records.

Rule 113. An institution shall maintain employee records for each employee and shall include documentation of all of the following information prior to employment or at the time specified in this rule:

(a) Name.

(b) A true copy of verification of education from an accredited college or university where minimum education requirements are specified by rule.

(c) Verification of high school diploma or GED when specified by rule.

(d) Work history.

(e) Three dated references which are obtained prior to employment from persons unrelated to the employee and which are less than 12 months old.

(f) A record of any convictions other than minor traffic violations from either of the following entities:

(i) Directly from the Michigan state police or the equivalent state law enforcement agency, Canadian province, or other country where the person usually resides or has resided in the previous 5 years,

(ii) From an entity accessing either Michigan state police records or equivalent state, Canadian provincial, or other country law enforcement agency where the person usually resides or has resided in the previous 5 years.

(g) If the employee has criminal convictions, the institution shall complete a written evaluation of the convictions that addresses the nature of the conviction, the length of time since the conviction, and the relationship of the conviction to regulated activity for the purpose of determining suitability for employment in the institution.

(h) A statement from the employee regarding any convictions.

(i) Documentation from the Michigan department of human services, the equivalent state or Canadian provincial agency, or equivalent agency in the country where the person usually resides, that the person has not been determined to be a perpetrator of child abuse or child neglect. The documentation shall be completed not more than 30 days prior to the start of employment and every 12 months thereafter.

(j) A written evaluation of the employee's performance within 30 days of the completion of the probationary period or within 180 days, whichever is less, and a written evaluation of the employee's performance annually thereafter.

(k) Verification of health where specified by institution policy.

Interpretation

Maintain employee records for each employee means all positions within the facility. Any person who has unsupervised contact with children is required to have an employee record. This includes student interns and volunteers.

Electronic personnel records are acceptable as long as they are readily available for review by the consultant.

(b) A true copy is defined as:

- A document received by the facility directly from the college or university.
- A notarized copy of a document from the college or university.
- A copy of the original that was viewed by a designated representative of the facility and noted as a true copy of the original.

Items (a) – (k) must be present for all new employees or volunteers prior to assignment to regular tasks.

The consultant is to confirm:

- (1) A record exists for each employee.
- (2) All required elements of an employee record exist.

(c) See individual rules covering position education requirements.

(e) References may be in the form of written documentation of conversations or letters of reference. Written documentation of conversations should be signed and dated by the person who completed the documentation. When a person is changing jobs within an agency, annual evaluations related to job function may be accepted as a reference.

References must be written and dated within the 12 months preceding hire. The name of the person giving the reference and this person's relationship to the employee must be documented.

(f) A statement should appear on the employment application that asks the employee if he or she has been convicted of an offense other than a minor traffic violation.

MCL 722.119 Section 9 (1) states, "A licensee or registrant, adult household member, licensee designee, chief administrator, or program director of a child care organization shall not be present in a child care organization if he or she has been convicted of either of the following:

- (a) Child abuse or child neglect.*
- (b) A felony involving harm or threatened harm to an individual within 10 years immediately preceding the date of hire or appointment.*

(2) A staff member or unsupervised volunteer shall not have contact with children who are in the care of a child care organization if he or she has been convicted of either of the following:

- (a) Child abuse or child neglect.*
- (b) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire or appointment.*

The agency must post how the agency determines if an employee or volunteer has a criminal record. The agency must provide documentation of criminal history

checks for all states or provinces where the person has lived in the preceding 5 years in the employee's record.

(g) When a record of convictions exists, the institution is to take the following into consideration when documenting assessment of the conviction record:

- Circumstances surrounding the offense(s);
- Length of time since the offense(s);
- Evidence of the offender's rehabilitation;
- Relationship of the offense(s) to licensed activity.

(h) The employee's statement regarding any conviction(s) should address the same criteria as those considered by the employer in assessing the conviction record.

The basis for the hiring decision shall be a part of the written documentation in the employee record.

(i) *MCL 722.119 (3) Except as provided in subsection (5), a licensee, registrant, adult household member, licensee designee, chief administrator, staff member, or unsupervised volunteer may not have contact with a child who is in the care of a child care organization until (he/she) provides the child care organization with documentation from the department that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect. Upon request by the department, (she/he) shall provide the department with an updated authorization for central registry clearance. If an updated central registry clearance documents that (he/she) is named as a perpetrator in a central registry case, he or she may not be present in the child care organization.*

As used in this subsection, "child abuse" and "child neglect" mean those terms as defined in section 2 of the child protection law, 1975 PA238m NCK 722.622.

CPS checks are required for everyone who has the potential for unsupervised contact with children – including student interns and volunteers, maintenance staff, and kitchen staff. A support staff's ability to have unsupervised contact with children is to be assessed and the assessment of the suitability documented in the person's personnel file.

Subpart (j) The institution may define the length of the probationary period as long as the evaluation of performance during the probationary period is completed within 30 days of completion of the probationary period and within 180 days of the employee's start date.

R 400.4114 Tuberculosis screening for employees and volunteers.

Rule 114. The licensee shall document, prior to employment, that each employee and volunteer who has contact with residents 4 or more hours per week for more than 2 consecutive weeks is free from communicable tuberculosis. Freedom from communicable tuberculosis shall be verified within the ~~3~~ 1 year period before employment and shall be verified every ~~3~~ 1 years after the last verification or prior to the expiration of the current verification.

Interpretation

This documentation may be maintained apart from employee or volunteer records, but must be available for review.

Documentation must include these factors:

1. Tuberculosis testing must be completed and maintained for each employee and volunteer who has contact with residents 4 or more hours per week for more than 2 consecutive weeks.
2. The tuberculosis testing must document that the employee or volunteer is free from communicable tuberculosis.
3. Verification of freedom from communicable tuberculosis at the time of employment must be less than 1 year old. Verification must be received prior to employment and every 1 year after the last verification.
4. (CDC, Post-Treatment Follow-Up) If the employee/applicant has previously been diagnosed with and treated for Latent Tuberculosis Infection (LTBI), they must:
 - Provide documentation that includes TST [Tuberculosis skin test] or IGRA [Interferon-Gamma Release Assays (blood test for TB infection)] results, chest radiograph results, names and dosages of medication and duration of treatment. These documents are to be presented any time future TB testing is required.
 - Provide documentation of knowledge of the signs and symptoms of TB disease and the need to contact a medical provider if he/she develops any of these signs or symptoms.
 - Regardless of whether the patient completed treatment for LTBI, serial or repeat chest radiographs are not indicated unless the person develops signs or symptoms suggestive of TB disease.

R 400.4115 First aid; CPR.

Rule 115. A person certified within the preceding 36 months in first aid and within the preceding 24 months in age-appropriate cardiopulmonary resuscitation by the American Red Cross, the American Heart Association, or an equivalent organization or institution approved by the department shall be on duty at all times when 1 or more children are present.

Interpretation

Certification in first aid and CPR provided by organizations other than those identified in the rule must be pre-approved by the department.

This rule is to be cited when a person with CPR and First Aid certification is not on duty.

When first aid training is not provided to all staff, R400.4128(4)(h) is to be cited.

PA 116 [MCL 722.112(a)] says that there needs to be a staff person on duty that has been certified in CPR within the previous twelve months by The American Red Cross, The American Heart Association, or an equivalent organization. Neither The American Red Cross nor The American Heart Association will sign a CPR certification until the person demonstrates competency. DCWL will not recognize an on-line CPR certification as equivalent to The American Red Cross or The American Heart Association because there is no demonstration of competence.

R 400.4116 Chief administrator; responsibilities.

Rule 116. (1) An agency shall assign the chief administrator responsibility for the on-site day-to-day operation of the institution and for ensuring compliance with these rules.

(2) An institution's chief administrator shall be administratively responsible annually for all of the following functions:

(a) Not less than once annually, conduct a written assessment and verify the agency's compliance with these rules.

(b) Develop and implement a written plan to correct, within 6 months, rule violations identified as a result of the assessment conducted pursuant to subdivision (a) of this subrule.

(c) Conduct a written evaluation of trends and patterns of all unplanned discharges.

Interpretation

Licensee Designee/Chief Administrator – A licensee designee is a person authorized to sign for the corporation. A Chief Administrator is the person who is responsible for day-to-day operations. These positions may be the same person or two different people. The person filling each role must always have been fingerprinted through the department's fingerprinting process.

The annual licensing inspection does not meet the requirement of Section 2. The report shall be generated by the chief administrator or his/her designee.

The assessment required in (2)(a) must be completed on an annual basis, but not at any particular time of the year. The agency must be able to document how they determined compliance. All DCWL reading forms are available on the DHHS public website to provide a tool that agencies may choose to use.

If a facility identifies rule violations, there must be a written plan (2b) that identifies how the facility will resolve the problems that resulted in the rule violations. The plan must be achievable within 6 months.

The evaluation required in (2)(c) must document how the assessment of unplanned removals and placement disruption occurs. The plan to correct any identified causes of disrupted and unplanned removals must also be documented. The intent of this rule is to look at causes and develop plans for resolving systemic issues that result in unplanned disruptions and removals, thus ensuring placement stability for youth who are in the program.

R 400.4117 Chief administrator; qualifications.

Rule 117. (1) A chief administrator, at the time of appointment, shall possess either of the following:

(a) A master's degree in a human behavioral science, education, business administration, or public administration from an accredited college or university and 2 years of experience in a child caring institution or child placing agency or equivalent organization from another state or Canadian province.

(b) A bachelor's degree with a major in education, a human behavioral science, business administration, or public administration from an accredited college or university and 4 years of post-bachelor's degree experience in a child caring institution or child placing agency or equivalent organization from another state or Canadian province.

(2) An organization shall notify the licensing authority of a change of chief administrator within 30 days of the change.

Interpretation

Diplomas or transcripts documenting an acceptable degree must be available. The diploma must identify the specific degree granted.

Work history must also be documented to show the required work experience.

A licensee or licensee designee may elect to designate a person to operate the child caring institution. Such a person must meet the definition of "Chief Administrator", R400.4101(e) and the requirements of this rule, even when the position is temporary while an agency searches for a new chief administrator.

R 400.4118 Social service supervisor; qualifications.

Rule 118. A social service supervisor, at the time of appointment to the position, shall possess either of the following:

(a) A master's degree in a human behavioral science from an accredited college or university and 2 years of experience as a social service worker.

(b)

(c) A bachelor's degree in a human behavioral science or another major with 25% of the credits in a human behavioral science from an accredited college or university and 4 years of experience as a social service worker

Interpretation

Diplomas or transcripts that identify the specific degree granted must be available for review.

The employee's application or resume in the personnel file must document the required work experience.

CPS is not a regulated function and does not count as experience as a social services worker when determining if the person is qualified as a social services supervisor.

Tie-Bar to Rule 101(a) – the definition of accredited.

R 400.4119 Social service worker; qualifications.

Rule 119. A social service worker, at the time of appointment to the position, shall possess a bachelor's degree with a major in a human behavioral science from an accredited college or university or another major with 25% of credits in human behavioral sciences.

Interpretation

Diplomas or transcripts that identify the specific degree granted must be available for review.

The employee's application or resume in the personnel file must document the required work experience.

A variance is not needed to comply with this rule when the major is not in human behavioral sciences and the agency has evaluated the transcript of an individual and has determined that 25% of the course work was in human behavioral sciences. The agency must be able to document how the determination was made when the consultant is doing the on-site evaluation. A local DHHS office or an agency under contract to DHHS must document that the employee possesses the required educational credentials.

Tie-Bar to Rule 101(a) – the definition of accredited.

R 400.4120 Supervisor of direct care workers; qualifications.

Rule 120. A supervisor of direct care workers shall have 1 of the following:

(a) A bachelor's degree from an accredited college or university and 2 years of work experience in a child caring institution.

(b) Two years of college from an accredited college or university and 3 years of work experience in a child caring institution.

(c) A high school diploma and 4 years of work experience in a child caring institution.

Interpretation

Diplomas or transcripts that identify the specific degree or diploma granted must be available for review.

The employee's application or resume in the personnel file must document the required work experience. For the purposes of this rule, work experience must be in a child caring institution.

A G.E.D. certificate is acceptable in place of a high school diploma.

Diploma from Home Schooling – Unless the home schooled person passed a GED or has a diploma is from a nationally accredited Home School Association that does standardized testing to prove competence, the diploma may not be recognized. It is the responsibility of the CCI to get appropriate documentation, including proof of accreditation, for the file. If documentation noted above is not there, there is a violation of this rule.

R 400.4121 Direct care worker; qualifications.

Rule 121. A direct care worker shall have completed high school or obtained a general equivalency diploma (GED).

Interpretation

Diplomas or transcripts that identify the specific degree or diploma granted must be available for review.

Diploma from Home Schooling – Unless the home schooled person passed a GED or has a diploma is from a nationally accredited Home School Association that does standardized testing to prove competence, the diploma may not be recognized. It is the responsibility of the CCI to get appropriate documentation, including proof of accreditation, for the file. If documentation noted above is not there, there is a violation of this rule.

R 400.4122 Resident and parent visitation.

Rule 122. An institution shall provide for visits between each resident and the resident's parents, unless parental rights have been terminated or the resident's record contains documentation that visitation is detrimental to the resident.

Interpretation

An organization must have and follow a method, established and known, for the purpose of assuring that parental visits are encouraged and facilitated.

Visits may be prohibited when parental rights have been terminated.

Documentation that visits are detrimental to the resident must be in the record prior to stopping or prohibiting visits. There is to also be consultation with the referring agency regarding how the visits are detrimental to the resident.

The location of the visits, either in the institution or in the home, may be discretionary, based on the security level of the facility and the youth's security needs. However, there must be a plan for visits at one or the other or both locations.

R 400.4123 Education.

Rule 123. (1) An institution shall not admit a child for care unless an appropriate educational program can be provided.

(2) Provision shall be made for an appropriate education program in accordance with 1976 PA 451, MCL 380.1 to 380.1853. Each resident of school age shall be enrolled not later than 5 school days after admission and continuously thereafter.

Interpretation

It is the responsibility of the institution to ensure that an appropriate educational program is available and/or can be provided for the youth identified in the program statement as those served by the program. If an individual resident's behavioral or educational needs cannot be met within a more traditional classroom setting, the institution may provide individualized instruction, either on-site or off-site, designed to meet the particular educational needs of the resident.

The educational program provided must be appropriate for the residents and meet the educational needs of the residents.

The educational program may be provided by the local or intermediate school district at established community schools or at an on-site school at the institution. The institution may operate its own on-site school program. The institution may arrange for educational services with a private school, either on-site or off-site.

R 400.4124 Communication.

Rule 124. An institution shall have and follow a written policy regarding communication that ensures that a child is able to communicate with family and friends in a manner appropriate to the child's functioning and consistent with the child's treatment plan and security level.

Interpretation

The intent of the rule is that residents should be given the opportunity to maintain approved communications safely. This includes, for example, written, electronic, telephone, text, and face-to-face communication.

If available means of communication are prohibited, the reason for the prohibition must be clearly documented.

When outgoing communication is censored, the reasons must clearly justify the action.

Methodology must allow a resident to be present if staff opens their mail. If, after opening, it is determined that the mail is inappropriate, it may be withheld and returned to sender.

Packages may be inspected without the resident being present. If, after opening, it is determined that the content of the package is not appropriate, it may be withheld and returned to sender.

R 400.4125 Personal possessions; money; clothing; storage space.

Rule 125. (1) An licensee shall have a written policy that designates all of the following:

- (a) The method used to safeguard residents' personal possessions and money.*
 - (b) The method used to accurately account for and return possessions and money to the resident or guardian upon discharge.*
 - (c) The method for ensuring that each resident has sufficient clean, properly fitting, seasonal clothing.*
- (2) The licensee shall provide accessible storage space for personal possessions.*

Interpretation

When valuables are in the possession of the institution, proper accounting practices must be used in receiving, dispersing, and returning valuables to a resident. The use of inventories and logs is appropriate.

Accurate records must be maintained for each resident.

Nothing in this rule prohibits an institution from establishing a list of prohibited items.

R 400.4126 Sufficiency of staff.

Rule 126 The licensee shall have a sufficient number of administrative, supervisory, social service, direct care, and other staff on duty to perform the prescribed functions required by these administrative rules and in the agency's program statement and to provide for the continual needs, protection, and supervision of residents.

Interpretation

Sufficient number means the number necessary to perform the functions identified in the agency's program statement and to achieve and maintain rule compliance.

The staffing ratio identified in R 400.4127(2) is to be considered the absolute minimum-staffing ratio allowed. Having sufficient staff is based on the agency's program statement. The institution must have all of the defined positions: direct care, a direct care supervisor, social service worker, social services supervisor, and administrator. A person may fill more than 1 position but must meet the qualifications for each position they fill. If an individual fills more than one position within the institution this individual cannot supervise their own work.

An institution can be in noncompliance with **R 400.4126** while in compliance with the "direct care worker ratio" of subpart (2) of **R 400.4127(2)**, for example:

- There are specific types of children with intensive needs that require a higher level of staff to provide for basic protection and care.
- An institution that does not require same sex supervision of showers may not be providing adequate supervision of its residents.
- Due to the nature of activities, some activities require more supervision than others to ensure safety.

Some ways to determine sufficiency of staff may include: a review of staffing schedules within the period under review, a review of unusual incident reports, or direct observation of how a unit is functioning.

R 400.4127 Staff-to-resident ratio.

Rule 127. (1) The licensee shall develop and adhere to a written staff-to-resident ratio formula for direct care workers.

(2) At a minimum, 1 direct care worker shall be responsible for not more than 10 residents at 1 time during residents' normal awake hours and not more than 20 residents at 1 time during the residents' normal sleeping hours.

(3) The ratio formula for direct care workers shall correspond with the institution's purpose and the needs of the residents and shall assure the continual safety, protection, and direct care and supervision of residents.

(4) When residents are asleep or otherwise outside of the direct supervision of staff, staff shall perform variable interval, eye-on checks of residents. The time between the variable interval checks shall not exceed fifteen minutes.

Interpretation

- (1) The licensee must identify a written staff to resident ratio. If the written ratio requires more staff than the rule identified ratios, the agency must comply with their written policy. The ratio formula must be in writing and clearly relate to the needs of the residents served. Each separate program component may be viewed individually to determine appropriate staffing.
- (2) The ratio of staff to youth may not be less than the requirements identified in this rule.
- (3) Institutions' purpose means the program components referred to in the institutions' program statement that must identify who is to be served, how they will be served and what services will be made available.

Continual means without interruption. At all times there must be a direct care worker on duty, responsible for no more than the number residents specified in the staff-to- resident ratio, in the area where the residents are located and responsible for the care and safety of each group of residents.

Continual does **not** mean constant, line-of –sight observation of each individual resident, unless the resident's needs dictate constant attention.

An emergency situation may necessitate the temporary deployment of staff to another part of the program. Even during an emergency situation youth must be supervised at all times. The agency's plan for staffing is to identify how emergency staffing will ensure that ratios are in compliance.

Live-in staff's own children are to be counted when determining the facility's staff-to-resident ratio if those children are supervised at any time by staff supervising residents.

When a resident who is the mother of an infant is providing direct supervision of her infant, the institution's staff to resident ratio does not have to include the infant as part of the staff to resident ratio. For those periods of time when the resident mother is unavailable to supervise her child, the institution must have and follow a specific policy that identifies how supervision is provided for the children of the residents.

When youth are in the classroom in a program where there is an on-grounds school, both R 400.4126 and R 400.4127(2) apply, however, the staff can be in the school building but not in the classroom, as long as they are positioned to intervene in a classroom issue. Teachers may count in the staffing ratio only when they have met the training requirements for direct care staff, (50 hours the first year and 25 hours in subsequent years as required by Rule 128.) If a teacher is allowed to utilize restraint, the teacher must have been trained in proper and safe methods and techniques of restraint that follow the agency's restraint protocol.

Qualified Fire Inspectors count all individuals including mothers and children to determine compliance with fire safety rules.

When there is approved one-to-one staffing, the stated ratio must still be followed and an additional staff also be assigned to the identified and approved child. The one-to-one staff person does not count toward the overall resident to child ratio.

- (4) Eyes on checks during non-up and awake times must be verified through a log of checks, video, electronic key stations, or other methodology.

R 400.4128 Initial staff orientation and ongoing staff training.

Rule 128. (1) *The licensee shall provide an orientation program for new employees. Job shadowing shall not be the only form of orientation.*

The orientation shall include the following:

(a) The institution's purpose, policies, and procedures, including discipline, crisis intervention techniques, and emergency and safety procedures.

(b) The role of the staff members as related to service delivery and protection of the children.

(2) The licensee shall provide a written plan of ongoing staff training related to individual job functions and the institution's program.

(3) The licensee shall document that each staff person whose function is covered by these rules has participated in a minimum of 50 clock hours of planned training within the first year of employment and a minimum of 25 clock hours of training annually thereafter related to the employee's job function. At least 16 of the 50 hours provided in the first year shall be orientation provided prior to the assumption of duties.

(4) Training opportunities for direct care staff shall include, but are not limited to, all of the following:

(a) Developmental needs of children.

(b) Child management techniques.

(c) Basic group dynamics.

(d) Appropriate discipline, crisis intervention, and child handling techniques.

(e) The direct care worker's and the social service worker's roles in the institution.

(f) Interpersonal communication.

(g) Proper and safe methods and techniques of restraint and seclusion if the agency has an approved seclusion room.

(h) First aid.

(5) An employee shall not participate in restraining a resident or placing a resident in seclusion prior to receiving training on those topics. The training model shall be approved, in writing, by the department.

Interpretation

Orientation is required for all staff of an organization including students and volunteers.

If the function of a volunteer or student is as a direct care worker, subparts (2), (3), and (4) also apply.

The orientation must be formalized with written documentation regarding the information covered and the amount of time spent on orientation.

All required elements of the orientation must be documented. This includes emergency procedures.

Training as identified in subpart (3) is required for all staff functioning in a regulated position, including administrators, direct care supervisors, direct care staff, social service workers and social service supervisors.

Training topics identified in subpart (4) must be delivered to all direct care staff.

MCL 722.112a Institution, center or home; person certified in first aid and CPR; applicability

Sec. 2a(1) A child caring institution, child care center, or group daycare home shall have on duty at all times while the institution, center or home is providing care to 1 or more children at least one person who has been certified within the preceding 36 months in first aid and within the preceding 12 months in age – appropriate cardiopulmonary resuscitation by the American Red Cross, the American Heart Association, or an equivalent organization or institution approved by the department.

A violation of subpart (4)(h) is to be cited when first aid training is not provided to all direct care staff. MCL 722.112a is to be cited when a person with CPR and First Aid certification is not on duty.

R 400.4129 Institutions serving developmentally disabled youth; written procedures.

Rule 129. An institution providing care to developmentally disabled residents shall require staff to follow written procedures for bathing, feeding, toilet training, and daily activities of residents.

Interpretation

An organization must have policy, procedures, and staff training (Rule 128) that assures developmentally disabled residents are adequately and properly cared for.

Policy, procedures and training must include all required elements specified in this rule.

R 400.4130 Privacy and confidentiality.

Rule 130 (1) An institution shall assure resident and parent privacy and confidentiality and shall protect residents from exploitations.

(2)A resident's identity may be disclosed for public purposes or publicity only after both of the following criteria are met:

(a) The parent has consented.

(b) The resident has consented if the resident is capable of consent.

Interpretation

Institutions shall make space available for residents and parents to have privacy during visits unless there are documented safety or security concerns.

If the resident is an MCI ward or is a permanent court ward, permission for public purposes or publicity only with permission of the office of the MCI superintendent or the court where the youth is a court ward.

R 400.4131 Compliance with child protection law; development of plan required.

Rule 131. The licensee shall develop and implement a written plan to assure compliance with the child protection law, 1975 PA 238, MCL 722.621 to 722.638.

Interpretation

An organization must have policy and procedures for the purpose of assuring that the provisions of the child protection law are met.

The minimum content of the written policy must include:

Definitions

Who in the institution makes the report to the agency.

Reporting location

Timeframes

Immediate Oral reports - Children's Protective Services Centralized Intake Unit
[Toll free **(855)444-3911**]

Written reports within 72 hours

Investigations

Confidentiality

Policy must be clear that all staff, including direct care workers, are required reporting persons. It is not acceptable to have a policy that says allegations regarding abuse or neglect must be sent to someone else to be reported by the agency rather than the person who observed the incident or who, for some other reason, is the person with first-hand knowledge of the incident making the report directly.

The policy of the institution must state that the institution is required to **REPORT SUSPECTED CHILD ABUSE OR NEGLECT**. The facility may not complete an internal investigation before making the referral to centralized intake or make internal determinations of whether or not suspected child abuse or neglect investigations are valid in lieu of reporting the allegations to centralized intake. Internal investigations are not to be undertaken until **AFTER** the investigation by Children's Protective Services to ensure the CPS investigation is not compromised or tainted.

Practice must conform to policy.

All allegations of suspected child abuse or neglect in a child caring institution or by child caring institution staff are also possible rule violations. The assigned child welfare licensing consultant must also complete a concurrent investigation related to the alleged rule violations.

R 400.4132 Grievance procedures.

Rule 132. (1) An agency shall have and follow a written grievance handling procedure for residents and their families. All of the following apply:

(a) The policy shall be provided to residents, their families, and referring sources prior to or at admission.

(b) The policy shall be explained in a language the resident and his or her family can understand.

(c) There shall be written acknowledgement the policy was provided as required in subdivision (a) of this subrule.

(2) The procedure shall provide for all of the following:

(a) Safeguarding the legal rights of residents and their families.

(b) Addressing matters that relate to compliance with the act, rules promulgated under the act, and the agency's written policies and procedures regarding services covered by these rules.

(c) Delineating the method of initiating the procedure.

(d) Specifying time frames for decisions.

(3) In a secure juvenile justice facility that uses room confinement as a behavioral sanction, the procedure shall provide for all of the following:

(a) Before the sanction begins, but not later than 24 hours after confinement for misconduct, an opportunity for the resident to be heard by a trained impartial fact finder designated by the chief administrator, has no personal knowledge of the incident, and has the authority to release the resident from confinement.

(b) Staff assistance in preparing and presenting his or her grievance or defense.

(c) A meaningful process of appeal.

(4) An agency shall provide a grievant with a written copy of the grievance resolution.

Interpretation

Grievance forms should be available to residents without having to ask a staff for one.

The grievance should not be accessible by direct care staff prior to it reaching the person responsible for responding to it – i.e. there should be a locked box, it could be slid under a locked door, or other means to ensure that it is not altered from what the resident or family is grieving.

R 400.4133 Institutional care for children under 6 years of age.

Rule 133. A child under 6 years of age shall not remain in an institution for more than 30 days, unless this stay is documented to be in the best interest of the child.

Interpretation

No further interpretation is necessary.

R 400.4134 Religious/spiritual policy and practices.

Rule 134. (1) The institution shall have and follow a policy on religious/spiritual participation that contains, at a minimum, both of the following:

(a) A resident shall not be prohibited from participating in religious activities and services in accordance with the resident's own faith and parental direction as long as the participation does not conflict with the safety and security of the facility.

(b) A resident shall not be compelled to attend religious services or religious education nor be disciplined for failing to attend.

(2) The institution shall provide the policy to parents and referral sources prior to or at admission.

Interpretation

An organization must have policy and procedures for assuring that each resident can practice their own faith. If religious training is an integral part of the program, it must be part of the organization's program statement.

An organization may provide its own religious training when that is part of the program statement and provided to anyone asking to review it. The program statement shall be provided to affected persons, including the youth, prior to a placement decision. It is not acceptable for an organization to impose behavioral consequences, i.e. deny a privilege to a resident, prevent a resident from earning a privilege, etc., for non-attendance when a youth refuses to participate, even if the youth initially agreed to participation at the time of admission.

The intent of the rule is that children should be given the opportunity to attend services, but not that religious instruction or attendance is required. If birth parents have specific religious practices that the child does not want to participate in, this should be negotiated in the treatment plan. The referring agency is to also be involved in determining what will be in the plan regarding religious participation

Tie-bar to Rule 109.

R 400.4135 Resident work experience.

Rule 135. (1) An institution shall have and follow a written policy regarding work experiences for residents that specifies, at a minimum, all of the following:

(a) How and when residents are or are not compensated for working.

(b) Means of protection from exploitation.

(c) The types of work experience that residents will engage in.

(2) Work experiences for a resident shall be appropriate to the age, health, and abilities of the resident.

(3) Residents shall not be permitted to work for staff members' personal gain and shall be protected from personal exploitation.

Interpretation

Work experiences are not required by the rule. The institution's policies may specify that work experiences are required. It is not required for residents to be paid when the institution's written policy requires residents to participate in routine chores such as keeping their beds made, cleaning their own rooms, etc.

A resident shall not be required to engage in work for which they have not been properly trained.

A facility should have written policy that addresses employment training, off campus employment, and wages.

R 400.4136 Recreational activities, equipment, and supplies; swimming restriction.

Rule 136. (1) An institution shall have and follow a written policy regarding recreational activities, equipment maintenance, appropriate supervision related to age of youth and developmental level of youth, and training of staff involved in recreational activities.

(2) Residents shall be provided a variety of indoor and outdoor recreational activities designed to meet the residents' needs.

(3) An institution shall provide appropriate recreation supplies and equipment.

(4) Swimming shall be permitted only where and when a qualified lifeguard is on duty and who is not counted in the staffing ratio.

(5) As used in this rule, high adventure activity means a program that requires specially trained staff or special safety precautions to reduce the possibility of an accident. If the institution provides high adventure activities, including swimming, the institution shall have and follow a program statement that covers all of the following:

(a) Activity leader training and certification and experience qualifications appropriate to the activity.

(b) Specific staff-to-resident ratio appropriate to the activity.

(c) Classifications and limitations for resident participation.

(d) Arrangement, maintenance, and inspection of the activity area.

(e) Equipment and the biannual inspection and maintenance of the equipment and the program by a nationally recognized inspection process.

(f) Safety precautions.

(g) High adventure activities shall be conducted by an adult who has training or experience in conducting the activity.

(6) If institution staff take youth away from the institution for 1 or more overnights, the institution shall keep a travel plan on file at the institution. The travel plan shall include an itinerary and pre-established check-in times.

Interpretation

Activities must be appropriate to each resident's age, abilities, and skills.

Equipment and supplies must be appropriate for the activities and in sufficient quantities to allow the plan to be carried out.

Residents that are taken to off-site activities remain under the supervision of and are still the responsibility of the institution.

Qualified lifeguard is an adult who:

- Has authority and responsibility to enforce rules pertaining to safety while swimming.
- Functions as a lifeguard and not as a direct care staff person.

- Is certified as a lifeguard for the specific type of swimming site: basic lifeguard for pools, lifeguard plus waterfront and head lifeguard for any open water setting.

Rule 435 identifies the requirements for on-site swimming beaches and pools.

If an organization has high adventure activities such as a high ropes course, that activity should be certified by a national organization that certifies high adventure activities. The certification should be current and available for the consultant to review.

R 400.4137 Sleeping rooms.

Rule 137. (1) Residents may be required to remain in their assigned rooms for up to 30 minutes to accommodate staff shift changes.

(2) Residents of the opposite sex, if either is over 5 years of age, shall not sleep in the same sleeping room.

(3) In new and converted institutions, single occupant sleeping rooms shall not be less than 70 square feet, exclusive of closet space.

(4) In new and converted institutions, multi-occupant sleeping rooms shall not be less than 45 square feet per occupant, exclusive of closet space.

(5) In new or converted secure institutions, locked resident sleeping rooms shall be equipped with a 2-way monitoring device.

(6) In programs that accept children less than 2 years of age, the following safe sleep conditions shall be followed:

(a) Infants, birth to 12 months of age, shall rest alone in a crib that meets all of the following conditions:

(i) Has a firm, tight-fitting mattress with a waterproof, washable covering.

(ii) Does not have any loose, missing, or broken hardware or slats.

(iii) Has not more than 2 3/8 inches between slats.

(iv) Has no corner posts over 1/16 inches high.

(v) Has no cutout designs in the headboard or footboard.

(vi) Has a tightly fitted bottom sheet that covers the mattress with no additional padding placed between the sheet and mattress.

(vii) Blankets shall not be draped over cribs or bassinets.

(viii) Soft objects, bumper pads, stuffed toys, blankets, quilts or comforters, and other objects that could smother a child shall not be placed with or under a resting or sleeping infant.

(b) An infant's head shall remain uncovered during sleep.

(c) Infant car seats, infant seats, infant swings, highchairs, playpens, pack-n-play, waterbeds, adult beds, soft mattresses, sofas, beanbags, or other soft surfaces are not approved sleeping equipment for children 24 months of age or younger.

(d) Children 24 months or younger who fall asleep in a space that is not approved for sleeping shall be moved to approved sleeping equipment appropriate for their size.

(e) Children birth to 24 months of age shall sleep alone in a crib or toddler bed that is appropriate and sufficient for the child's length, size, and movement.

(f) An infant shall be placed on his or her back for resting and sleeping.

(g) An infant unable to roll from stomach to back, and from back to stomach, when found facedown, shall be placed on his or her back.

(h) An infant who can easily turn over from his or her back to his or her stomach, shall initially be placed on his or her back, but allowed to adopt whatever position he or she prefers for sleep.

(i) For an infant who cannot rest or sleep on his or her back, the institution shall have written instructions, signed by a physician, detailing an alternative safe sleep position and/or other special sleeping arrangements for the infant.

(j) The institution shall maintain supervision and frequently monitor infant's breathing, sleep position, and bedding for possible signs of distress. Baby monitors shall not be used exclusively to comply with this subdivision.

Interpretation

For institutions licensed prior to November 15, 1983, there is no required minimum square footage per resident. Any building modifications or changes in operating conditions after 11-15-83 requires that the institution be in compliance with all parts of this rule.

Measurements of space must be completed at original licensure and at any other time when the use of space changes or the facility is modified.

“2-way monitoring device” means a method is in place that allows for continuous sight or hearing contact between the resident and staff.

Over 5 years of age means 5 years and 1 day.

R 400.4138 Bedding and linen.

Rule 138. (1) Each resident shall be provided with an individual bed with a clean pillow, mattress and sufficient clean blankets.

(2) Each resident shall be provided with clean sheets and a pillowcase at least weekly and more often if soiled.

(3) All bedding shall be in good repair and shall be cleaned and sanitized before being used by another person.

Interpretation

This rule is to assure that each resident has an individual bed with a clean mattress, 2 clean sheets, sufficient blankets to keep warm, a clean pillowcase, and a clean pillow, all of which are in good repair.

Compliance exists when an institution:

1. Sanitizes the mattress, pillow, blanket, and sheets with every new resident.
2. Allows the residents to wash sheets, blankets, or whatever is soiled at any time during the week.
3. All residents are provided with a clean pillowcase and 2 clean sheets every week that are good repair, (no rips).

R 400.4139 Driver's license.

Rule 139. The institution shall document that the driver of any vehicle transporting residents at the request of or on behalf of the licensee shall be an adult and possess a valid operator or chauffeur license with endorsement appropriate to the vehicle driven and the circumstances of its use.

Interpretation

This rule is to assure that an agency allows only employees or volunteers possessing a valid operator or chauffeur license transport residents.

Compliance exists when an institution:

1. Develops a method of checking for and documenting that an employee or volunteer has a valid license at the time he/she is hired.
2. Develops a method of assuring and documenting that the driver's license continues to be valid at regular intervals to be determined by the agency.

R 400.4140 Transportation.

Rule 140. (1) The institution shall have and follow a policy on vehicle maintenance that ensures vehicles are properly maintained.

(2) All vehicles shall be insured as required by state law.

(3) Each resident transported shall occupy a manufacturer's designated seat. A resident shall not be transported in any portion of any vehicle not specifically designed by the manufacturer for passenger transportation.

(4) Infants and children shall use age appropriate child safety seats as required by state law.

Interpretation

Compliance exists when:

1. The agency has documentation of the maintenance on "agency vehicles" used to transport residents. Documentation should include routine maintenance such as oil changes as well as major repairs on the vehicles.
2. Residents may never be allowed to ride any area of a car or other vehicle that does not have a seat belt.
3. Infants must always be transported in safety seats.
4. Children who are required by state law to be in a safety seat may only be transported in the age appropriate safety seats.

Any facility that allows staff to transport a resident in a personal vehicle shall have written policy that demonstrates how the facility verifies compliance with subpart (2) of this rule.

R 400.4141 Safety belts.

Rule 141. The driver and all passengers shall be properly restrained with safety belts while the vehicle is being operated.

Interpretation

Compliance exists when:

1. Employees, volunteers, and residents are aware that whenever residents are transported everyone must wear seatbelts.

R 400.4142 Health services; policies and procedures.

Rule 142. (1) An institution shall establish and follow written health service policies and procedures addressing all of the following:

- (a) Routine and emergency medical, dental, and behavioral health care.*
 - (b) Health screening procedures.*
 - (c) Documentation of medical care and maintenance of health records.*
 - (d) Storage of medications.*
 - (e) Dispensing medication.*
 - (f) Definition and training of personnel authorized to dispense medications.*
 - (g) Methods for dispensing medication when the resident will be off site.*
- (2) Resident medications shall be kept in the original pharmacy supplied container until dispensed, shall be kept with the equipment to administer it in a locked area, and refrigerated, if required.*

Interpretation

Routine health care includes physicals, dentals, and follow up for any medical procedure.

Emergency health care includes care for broken bones. An emergency is any injury or situation that occurs without notice.

Behavioral health relates to mental health care, such as psychiatric appointments, psychotropic medication reviews, possible changes in psychotropic medications, and emergency psychiatric hospitalizations.

Compliance exists when the agency:

- Has specific policy and procedures that describe how the agency conducts routine and emergency medical and behavior health care.
- Has specific policies and procedures that describe health screening procedures when residents initially arrive, and when there is suspicion or concern about a health issue. For example, there is suspicion that someone has brought in drugs and there is a need for drug screens, there should be a specific procedure on how the screening will occur.
- Has specific policies and procedures that identify how medical care is documented in the residents' medical file kept at the agency.
- Has specific policies and procedures for how medication will be dispensed, including usual places and times of dispensing.
- Has specific policies and procedures for dispensing medication to parents or guardians when residents go home for a visit and when residents are released.
- Has a job description for any staff person who will dispense medication. There must be a description of the training program to be completed by the staff person who may dispense medication.

- Has a specific plan for dispensing medication when residents are off site. For example, if the group goes camping, there should be a written plan for securing and dispensing medicine at the campsite.

For agencies under contract to DHHS, when citing the agency for not having approval to administer a psychotropic med, cite DHS Policy 802-1. The approval signature is contained on a DHS 1643. When there is a lack of documentation of a psychotropic medication being given or a lack of documentation on how it was given, cite MSA 8.B.5 .

For agencies that contract with and receive payment from a community mental health services program or prepaid inpatient mental health program, PRN's for specific behavior management are a statutory violation of MCL 722.112d.

R 400.4143 Medical treatment; supervision.

Rule 143. Medical treatment shall be under the supervision of a licensed physician or other licensed health professional as permitted by law.

Interpretation

Licensed health professionals may include nurse practitioners or physician's assistants who are under the supervision of a licensed physician.

R 400.4144 Admission health screening; physical examinations.

Rule 144. (1) An initial health screening shall be completed for each resident within 24 hours of admission to a facility.

(2) An institution shall have the following documentation of an admission physical examination for each resident, unless an earlier examination is medically indicated:

(a) For a resident under 3 years of age, a physical examination shall have been completed within 90 calendar days prior to admission or a new physical examination shall be completed within 30 calendar days after admission.

(b) For a resident 3 years of age or older, a physical examination shall have been completed within 1 year prior to admission or a new physical examination shall be completed within 30 calendar days after admission.

(3) Sufficient health history information shall be documented for each resident to assure proper medical care.

(4) Nothing in the rules adopted under the act shall authorize or require a medical or physical examination or treatment for any child whose parent objects on religious grounds. If a parent objects to medical or physical examinations or treatments on religious grounds, the objection shall be made in writing to the institution and retained in the resident's file.

Interpretation

Compliance exists when:

- Heath screening for the resident occurs within 24 hours of admission and has been conducted by an employee authorized by the facility's health care policy.
- All physicals are completed within the time-frame of the rule by a licensed physician or other licensed health professional as permitted and shall be dated and signed.
- The facility has gathered sufficient health history information from the placing agency, parent or guardian to provide proper medical care.
- The agency has allowed the parent or guardian to place written documentation in the file objecting to medical treatment for religious reasons.

R 400.4145 Periodic physical examinations.

Rule 145. (1) An institution shall provide and document periodic physical examination for each resident as follows, unless greater frequency is medically indicated:

(a) At least once every 3 months for residents under 1 year of age.

(b) At least once every 14 months for residents 1 year of age or older.

(2) Nothing in the rules adopted under 1973 PA 116 shall authorize or require a medical or physical examination or treatment for any child whose parent objects on religious grounds. If a parent objects to medical or physical examinations or treatments on religious grounds, the objection shall be made in writing to the institution and retained in the resident's file.

Interpretation

Compliance exists when:

- Documentation of a signed and dated physical examination is in a resident's file for a resident less than 1 year of age that has been completed every three months by a physician or other licensed health professional.
- Documentation of a signed and dated physical examination is in a resident's file for a resident older than 1 year of age that has been completed every fourteen months by a physician or other licensed health professional.
- The agency has allowed the parent or guardian to place written documentation in the file objecting to medical treatment for religious reasons.

R 400.4146 Immunizations.

Rule 146. (1) A resident shall have current immunizations as required by the department of community health.

(2) If documentation of immunizations is unavailable, immunizations shall begin within 30 calendar days of admission, unless a statement from a physician indicating that immunizations are contraindicated is included in the resident's record.

(3) A written statement from a physician, referring agency, parent, or guardian indicating immunizations are current is sufficient documentation of immunizations.

(4) Nothing in the rules adopted under 1973 PA 116 shall authorize or require immunizations for any child whose parent objects on religious grounds. If a parent objects to immunizations on religious grounds, the objection shall be made in writing to the institution and retained in the resident's file.

Interpretation

This rule ensures that the resident receive immunizations as required by the department of community health (DCH).

Compliance exists when:

- There is documentation of the resident's immunization in the file. If a resident receives Medicaid, the responsible CPA worker for the youth should be able to access the immunization record from the MiSACWIS link to DCH records.
- Written documentation from a physician or licensed health care professional stating that the immunizations have been initiated or they are contraindicated
- Written documentation from the physician, referring agency parent or guardian stating the immunizations are current.
- Written documentation in the file from the parent objecting to immunizations on religious grounds.

R 400.4147 Dental care.

Rule 147. (1) A licensee shall provide for and document dental examinations and treatment for each resident 3 years of age and older.

(2) A dental examination within 12 months prior to admission shall be documented or there shall be an examination not later than 90 calendar days following admission.

(3) Reexamination shall be provided at least every 14 months unless greater frequency is indicated.

Interpretation :

Compliance exists when:

There is documentation that the resident 3 years or older has had a dental examination by a licensed dentist within the 12 months prior to admission or no later than 90 days after admission. Re-examination must occur within 14 months of the last dental examination unless greater frequency is indicated. If the dental examination identifies a need for dental treatment, there must be a plan for securing needed treatment within a reasonable time, based on the extent of the dental needs identified.

Residents who have a dental emergency are to be seen by a dentist at the time of the emergency.

R 400.4148 Personal hygiene.

Rule 148. An institution shall assure that each resident maintains or receives personal care, hygiene, and grooming appropriate to the resident's age, sex, race, cultural background, and health needs.

Interpretation

Compliance exists when:

- An agency assures that each resident receives personal care products such as, toothpaste, deodorant, lotion, shampoo, and other grooming products that may be needed to meet cultural grooming needs such as special hair grooming products.
- An agency must also ensure that each resident receives personal hygiene and health items appropriate to gender and age.

R 400.4149 Resident nutrition.

Rule 149. (1) A licensee shall provide a minimum of 3 nutritious edible meals daily unless medically contraindicated and documented.

(2) Meals shall be of sufficient quantity to meet the nutritional allowances recommended by USDA guidelines: (www.healthierus.gov/dietaryguidelines)

(3) A resident who has been prescribed a special diet by a physician shall be provided such a diet.

(4) Menus, including snacks if provided, shall be written and posted prior to the serving of the meal. Any change or substitution shall be noted and considered as part of the original menu. Menus shall be retained for 1 year.

Interpretation

Compliance exists when:

- The agency provides a minimum of 3 meals per day.
- The agency reviews www.healthierus.gov/dietaryguideline each year to determine if there has been a change in USDA recommended nutritional guidelines, and adjusts serving sizes and nutritional content accordingly. There is no prohibition on serving more than the guidelines recommend when residents are hungry.
- Provide documentation in a resident's file when there is a physician prescribed special diet and evidence the prescribed diet has been followed.
- Post all menus, including snack items, on the menu. Menus are to be immediately changed if there are substitutions and must be available for the Licensing Consultant to review.

Alternative meals may not be used as a behavioral consequence. A resident who is vegetarian must also be offered nutritious meals that are varied. It is not acceptable to force the youth to eat the same thing, such as peanut butter, for every meal.

Tie Bar to Rule 134 - Meal alternatives may be offered based on religious beliefs.

R 400.4150 Incident reporting.

Rule 150. (1) Any incident resulting in serious injury of a resident or illness requiring inpatient hospitalization, shall be reported to the parent/ legal guardian, responsible referring agency, and the licensing authority as soon as possible, but not more than 24 hours after the incident.

(2) The death of a resident shall be reported immediately to the parent/legal guardian or next of kin, law enforcement, the licensing authority, and the referring agency.

(3) If an institution determines that a youth is absent without legal permission, then the institution shall immediately report the information to law enforcement, the parent/legal guardian or next of kin, the licensing authority, and the referring agency.

(4) When a resident's behavior results in contact with law enforcement, the incident shall be reported to the parent/legal guardian, responsible referring agency, and the licensing authority as soon as possible, but not more than 24 hours after the incident.

Interpretation

This rule is to ensure that serious incidents are reported to all appropriate authorities.

Compliance exists when:

- The agency develops policies and procedures for reporting serious injury that are specific and describe how each person will be contacted and that all required parties will be contacted within 24 hours. **Tie-Bar to Rule 101(ee)**
- The agency develops specific policies and procedures for reporting the death of a resident to the appropriate authorities, must describe how each person will be contacted, and that all required parties will be contacted immediately.
- The agency develops policies and procedures for reporting the absence of a youth from a facility without legal authority that are specific and address how each person will be contacted. A youth's AWOL Status is determined by the facility's policy, contract, and program statement language
- The agency develops specific policies and procedures for reporting residents that have come in contact with law enforcement to the appropriate authority within 24 hours after the incident and state how each person will be contacted.

R 400.4151 Emergency; continuity of operation procedures.

Rule 151. (1) An institution shall establish and follow written emergency procedures that have been approved by the department that maintain the continuity of operations for a minimum of 72 hours to assure the safety of residents for the following circumstances:

(a) Fire.

(b) Severe weather.

(c) Medical emergencies.

(d) Missing persons.

(f) Disasters.

(g) Utility failures.

(2) The procedures shall explain, in detail, all of the following:

(a) Staff roles and responsibilities.

(b) Evacuation procedures.

(c) Required notifications, including but not limited to, the licensing authority, the referring agency, and law enforcement.

(d) Methods for maintaining continuity of services.

Interpretation

Procedures must deal with care and supervision of residents during the emergency based on the security level of the facility, including accounting for residents.

Additional areas of concern that may be addressed include; Shelter-in-place drills, evacuation from a single building, evacuation from the entire site, accident or illness involving multiple residents, and hostage situations.

Staff must be trained on these procedures and their training documented in their personnel file.

R 400.4152 Initial documentation

Rule 152. At the time of admission, all of the following shall be in the resident's case record:

(a) Name, address, birth date, sex, gender, race, height, weight, hair color, eye color, identifying marks, religious preference, and school status.

(b) A photograph taken within the previous 12 months.

(c) A brief description of the resident's preparation for placement and general physical and emotional state at the time of admission.

(d) Name, address, and marital status of parents and name and address of legal guardian, if known.

(e) Date of admission and legal status.

(f) Documentation of legal right to provide care.

(g) Authorization to provide medical, dental, and surgical care and treatment as provided in section 14a(1), (2), and (3) of 1973 PA 116, MCL 722.124a.

(h) A brief description of the circumstances leading to the need for care.

(i) Documentation that the grievance policy was provided as required in R 400.4132.

Interpretation

At the time of admission means within the first 24 hours.

School status means whether the youth is in or out of school, whether the youth has completed school, reason for being out of school if it is a reason other than completing school, grade level, current or last school attended, and any special school programs that were being provided when the child last attended school.

Resident preparation means a description of the steps taken prior to admission to prepare the child for placement. This includes sharing the institution's program, rules and the daily schedule.

Physical and emotional state means the results of observation by designated staff looking for such things as general appearance, bruises, any apparent illness and the attitude and current behaviors demonstrated by the child.

Compliance exists when:

1. Case records exist for each resident. The record may be electronic if it is available for review by the consultant at any time.
2. All of the required information and documents are in each case record.

Acceptable forms of documentation of the legal right to provide care are:

1. Court Order
2. Parental or guardian written permission
3. Purchase of service agreement

4. Admission through DCH or local CMH
5. Interstate compact request, FIA 4332
6. Tribal court order

For subparts (f) and (g) for runaways, documenting a phone call to parent(s) for their verbal permission until written permission is received is acceptable. The phone call to the parent is to be initiated within 2 hours and written permission received within 72 hours of the receipt of verbal permission.

Parents under 18 years of age may not authorize placement or treatment unless the parent is a legally emancipated minor.

Photographs shall be dated

R 400.4153 Shelter care and detention institutions; preliminary service plans.

Rule 153. Within 7 calendar days of admission, a plan shall be developed for each resident. The plan shall include all of the following:

- (a) The reason for care.*
- (b) An assessment of the resident's immediate and specific needs.*
- (c) The specific services to be provided by the institution.*
- (d) Other resources to meet the resident's needs.*

Interpretation

A plan of care must be in the record for each child by the seventh day of care. The day of admission counts in the 7 days.

A plan may be brief, but must be specific to the child and include an assessment of the child's needs. The plan shall be signed and dated.

The reason for care should outline the case specific conditions that led to placement at this facility.

The assessment and service plan is to be prepared by a person who meets the qualifications for a social services worker. The person does not have to be a full time staff member of the institution.

R 400.4154 Shelter care and detention institutions; service plans.

Rule 154. (1) Within 30 calendar days after admission and every 15 calendar days thereafter, an institution shall complete a written service plan. The service plan shall include all of the following:

- (a) The reason for continued care.*
 - (b) Evaluation of service needs.*
 - (c) Ongoing service needs.*
 - (d) How service needs will be met.*
 - (e) Unmet service needs and the reasons those needs are unmet.*
- (2) Copies of the plan shall be maintained at the institution.*

Interpretation

Copies of the service plan shall be maintained for any child in care based on the requirements of Rule 167.

The service plan is to be prepared by a person who meets the qualifications for a social services worker. The person does not have to be a full time staff member of the institution.

The service plan shall be signed and dated

R 400.4155 Institutions not detention institutions or shelter care institutions; initial treatment plan.

Rule 155. (1) The social service worker shall complete, sign, and date an initial treatment plan for each resident within 30 calendar days of admission.

(2) The initial treatment plan developed by the social worker shall document input from the resident, the resident's parents, direct care staff, and the referral source, unless documented as inappropriate.

(3) The initial treatment plan shall include all of the following:

(a) An assessment of the resident's and family's strengths and needs.

(b) Plans for parent and child visitation.

(c) Treatment goals to remedy the problems of the resident and family, and time frames for achieving the goals.

(d) Indicators of goal achievement.

(e) The person responsible for coordinating and implementing the resident and family treatment goals.

(f) Staff techniques for achieving the resident's treatment goals, including a specific behavior management plan. The plan shall be designed to minimize seclusion and restraint and include a continuum of responses to problem behaviors.

(g) Projected length of stay and next placement.

(h) For youth who are permanent court wards or MCI wards, there must be documented co-ordination with the agency assigned to complete adoption or permanency planning for the youth.

(i) For youth 14 years of age and over, a plan to prepare the youth for functional independence.

(4) The social service worker shall sign and date the initial treatment plan.

(5) The social service supervisor shall approve, countersign, and date the initial treatment plan.

Interpretation

The intent of this rule is to assure that children in care are evaluated and receive the appropriate services to meet their needs, that they are not in care longer than necessary or the duration of the court order, and that they achieve timely permanence.

R 400.4156 Institutions not detention institutions or shelter care institutions; updated treatment plan.

Rule 156. (1) The social service worker shall complete, sign, and date an updated treatment plan for each resident at least once every 90-calendar days following the initial treatment plan.

(2) The updated treatment plan developed by the social worker shall document input from the resident, the resident's parents, direct care staff, and the referral source, unless documented as inappropriate.

(3) The updated treatment plan shall include all of the following information:

(a) Dates, persons contacted, type of contact, and place of contact.

(b) Progress made toward achieving the goals established in the previous treatment plan.

(c) Changes in the treatment plan, including new problems and new goals to remedy the problems. Indicators of goal achievement and time frames for achievement shall be specified along with a specific behavior management plan designed to minimize seclusion and restraint and that includes a continuum of responses to problem behaviors.

(d) For youth who are permanent court wards or MCI wards, there must be documented co-ordination with the agency assigned to complete adoption or permanency planning for the youth.

(e) For youth 14 years of age and over, a plan to prepare the youth for functional independence.

(4) The social service worker shall sign and date the initial treatment plan.

(5) The social service supervisor shall approve, countersign, and date the updated treatment plan.

Interpretation

An updated service plan is to be completed no more than 90 calendar days following the completion of the previous initial or updated services plan.

Resident treatment plans must outline the individual child's behavior management plan rather than a generic plan based on the program statement. Time frames for goals are to be realistic.

The intent of this rule is to assure that children in care are evaluated and receive the appropriate services to meet their needs, that they are not in care longer than necessary or the duration of the court order, and that they achieve timely permanence.

R 400.4157 Behavior management.

Rule 157. (1) An institution shall establish and follow written policies and procedures that describe the institution's behavior management system. The policies and procedures shall be reviewed annually and updated as needed. These shall be available to all residents, their families, and referring agencies.

(2) At a minimum, the behavior management system shall include all of the following:

(a) A structured system designed to reward the positive behavior of individual residents based upon the effort put forth.

(b) Positive intervention strategies to assist residents in developing improved problem solving, self-management, and social skills.

(c) Written guidelines for informally resolving minor misbehavior.

(d) Written rules of conduct that specify all of the following:

(i) Expected behavior.

(ii) Acts that are prohibited in the institution.

(iii) The range of interventions that may be imposed for violation of those rules.

(e) Scheduled training for institution personnel in the behavior management system.

(f) A provision for resident input into the proper application of the behavior management system.

(g) A provision for the distribution of behavior management policies and procedures to residents, parents, and referral agencies.

Interpretation

Policies and procedures must reflect that the primary focus of behavior management is prevention of the occurrence of problems. Policy must clearly identify acceptable methods of positive behavior management and must clearly identify prohibited practices, including, but not limited to, all of the practices prohibited by the rule.

An organization must provide staff with ongoing training to assure that resident behavior management policies are followed. Verification of training must be in staff personnel files.

R 400.4158 Discipline.

Rule 158. (1) An institution shall establish and follow written policies and procedures regarding discipline. These shall be available to all residents, their families, and referring agencies.

(2) An institution shall prohibit all cruel and severe discipline, including any of the following:

(a) Any type of corporal punishment inflicted in any manner.

(b) Disciplining a group for the misbehavior of individual group members.

(c) Verbal abuse, ridicule, or humiliation.

(d) Denial of any essential program services, including adoption planning.

(e) Withholding of food or creating special menus for behavior management purposes.

(f) Denial of visits or communications with family.

(g) Denial of opportunity for at least 8 hours of sleep in a 24-hour period.

(h) Denial of shelter, clothing, or essential personal needs.

(3) Residents shall not be permitted to discipline other residents.

Interpretation

Cruel and severe is discipline that is demeaning, demoralizing and done in such a manner that it attacks the individual rather than the problematic behavior. Any form of corporal punishment is considered cruel and severe.

Corporal punishment" any physical discipline inflicted on the body.

Excessive is any method used beyond the minimum amount necessary to protect the individual, or over a longer period of time than is necessary for the child to regain their composure.

Chemical restraint is a means of managing behavior through the use of any drug that is not standard treatment for the child's medical or psychiatric condition, has the effect of temporarily restricting movement, and is used solely to control the child's behavior.

Policies and procedures should reflect that the primary focus of discipline is prevention of the occurrence of problems. Ongoing training is to be provided to all staff who are involved in identifying discipline methods in treatments plans or administering discipline to assure that resident discipline policies are followed.

Policies and procedures must reflect that the primary focus of behavior management is prevention of the occurrence of problems. Policy must clearly identify acceptable methods of positive behavior management and must clearly identify prohibited practices, including, but not limited to, all of the practices prohibited by the rule.

R 400.4159 Resident restraint.

Rule 159. (1) An institution shall establish and follow written policies and procedures regarding restraint. These policies and procedures shall be available to all residents, their families, and referring agencies.

(2) Resident restraint shall be performed in a manner that is safe, appropriate, and proportionate to the severity of the minor child's behavior, chronological and developmental age, size, gender, physical condition, medical condition, psychiatric condition, and personal history, including any history of trauma, and done in a manner consistent with the resident's treatment plan.

(3) The written policy shall include all of the following:

(a) Procedures for the review of an incident of restraint within 48 hours by a level of supervision above the staff ordering or conducting the restraint to determine if the requirements of the institution's procedures were adhered to in directing and conducting the restraint.

(b) Procedures for the provision of sufficient and adequate training for all staff members of the institution who may use or order the use of restraint using the institution's written procedures.

(c) Procedures for recording restraints as an incident report.

(d) Procedures for the review and aggregation of incident reports regarding restraints at least biannually by the institution's director or designee.

(4) The written policy shall only permit the licensee to restrain a child for the following circumstances:

(a) To prevent injury to the child, self-injury, or injury to others.

(b) As a precaution against escape or truancy.

(c) When there is serious destruction of property that places a child or others at serious threat of violence or injury if no intervention occurs.

(5) The written policy shall prohibit, at a minimum, any of the following aversive punishment procedures:

(a) The use of noxious substances.

(b) The use of instruments causing temporary incapacitation.

(c) Chemical restraint as defined in the act.

(6) Restraint equipment and physical restraint techniques shall not be used for punishment, discipline, or retaliation.

(7) The use of a restraint chair is prohibited.

(8) Resident restraint shall only be applied for the minimum time necessary to accomplish the purpose for its use as specifically permitted in subrule (2) of this rule. Approval of a supervisor shall be obtained when the restraint lasts more than 20 minutes.

(9) The approval of the administrator or his or her designee shall be obtained prior to any use of material or mechanical restraints. A staff member shall be present continuously while material or mechanical restraint equipment is being used on a resident, and the staff member shall remain in close enough proximity to the restraint to intervene immediately in case of emergency to protect the safety of the resident.

(10) A staff person shall document each use of material or mechanical restraint equipment in a written record and shall include all of the following information:

- (a) The name of the resident.*
- (b) The name of the administrator or designee who authorized the use of the equipment, and the time of the authorization.*
- (c) The time the restraint equipment was applied.*
- (d) The name of the staff member who was responsible for the application.*
- (e) A description of the specific behavior that necessitated its use.*
- (f) The name of the staff person who was continuously with the resident.*
- (g) The date and time of removal of the equipment and the name of the person removing the equipment.*

Interpretation

Personal restraint means the application of physical force without the use of a device, for the purpose of restraining the free movement of a minor child's body.

Mechanical restraint means a device attached or adjacent to the minor child's body that he or she cannot easily remove and that restricts freedom of movement or normal access to his or her body.

Chemical restraint is a means of managing behavior through the use of any drug that is not standard treatment for the child's medical or psychiatric condition, has the effect of temporarily restricting movement, and is used solely to control the child's behavior.

Restraint is to be used as a last resort when alternative, less restrictive discipline and/or behavior management has been unsuccessful.

Incident reports are to document the unsuccessful use of less restrictive methods of discipline and behavior management prior to restraining a resident.

Staff must receive ongoing training on the facility's approved restraint technique(s). These trainings must be documented in their personnel file.

MCL 722.111(f) prohibits the use of restraint or seclusion in a Therapeutic Group Home.

All uses of restraint shall be reported to the department using the department's designated electronic reporting system within the timeframes required by the department.

R 400.4160 Seclusion rooms; department approval required

Rule 160. (1) Prior to establishing a seclusion room, an institution shall - obtain written approval from the department's licensing authority and the department of licensing and regulatory affairs' bureau of fire services.

(2) Prior to changing policies related to the use of a seclusion room, an institution shall obtain written approval from the department's licensing authority.

Interpretation

Seclusion room means a room or space used to confine a resident that may be locked, unlocked or unlockable. Confined means not allowed to come out of the room or space until staff says so.

The use of any room, including a bedroom, for confinement at other than normal sleeping times or shift change as allowed in Rule 137(1), means the room is a seclusion room. This applies whether the facility is secure or non-secure. The room must be approved for confinement prior to using the room in that manner.

The change of location of a seclusion room from one room to a different room requires new department approval.

R 400.4161 Seclusion rooms; policies and procedures.

Rule 161. An institution approved to use a seclusion room shall establish and follow written policies and procedures specifying its use. The policy shall include, at a minimum, all of the following provisions:

(a) Seclusion shall be performed in a manner that is safe, appropriate, and proportionate to the severity of the minor child's behavior, chronological and developmental age, size, gender, physical condition, medical condition, psychiatric condition, and personal history, including any history of trauma.

(b) The room may only be used if a resident is in danger of jeopardizing the safety and security of himself, herself, or others.

(c) The room shall be used only for the time needed to change the behavior compelling its use.

(d) Not more than 1 resident shall be placed in a room at 1 time.

(e) Staff shall observe the resident at intervals of 15 minutes or less and shall record the observation in a seclusion room log. Video surveillance shall not be the only means of observation.

(f) The log shall include all of the following information:

(i) Name of resident.

(ii) Time of each placement.

(iii) Name of staff person responsible for placement.

(iv) Description of specific behavior requiring use or continued use of the room and interactive strategy for removal.

(v) Medical needs addressed during seclusion, including medication administration.

(vi) Time of each removal from the room.

(g) The room shall be equipped to minimize suicide risk and risk of physical injury. Break-resistant glass glazing and/or security screening shall be provided.

(h) The monitoring device or devices in a seclusion room shall be on and monitored by an employee when a resident is in the room.

Interpretation:

The policies of the institution shall:

- Establish safeguards while the resident is confined to the room.
- Identify supervisory and administrative controls to manage the appropriate use of the room.
- Allow seclusion only be used when a resident is both out of control and in danger of harming self or others.

Consultants must review the facility's logs to determine how long the youth are being kept in seclusion. This review helps make a determination regarding whether seclusion is being used as a form of punishment rather than until the youth gets control of their behavior. The use of seclusion as a form of behavior management or as a sanction for inappropriate/disallowed behaviors is a violation for any facility that is not a secure juvenile justice facility.

All uses of seclusion shall be reported to the department using the department's designated electronic reporting system within the timeframes required by the department.

R 400.4162 Seclusion rooms; administrative oversight.

Rule 162. (1) The chief administrator or chief administrator designee shall be informed of all instances of placement into a seclusion room within 24 hours.

(2) The chief administrator or chief administrator designee shall track all instances of the use of a seclusion room, the length of each confinement, the frequency of individual residents confined, the reason for the confinement, and the staff person who initiated the confinement for the purpose of analyzing the effectiveness of the intervention for controlling behavior in the program.

(3) For each instance in which a resident remains in the room for more than an hour, the log shall contain documentation of supervisory approval and the reasons for continued use.

(4) For each instance in which a resident remains in the room for more than 2 hours, the log shall contain hourly supervisory approval and the reasons for continued use.

(5) When the seclusion room is used for more than 3 hours, administrative review above the level of the supervisor who approved the extended use shall be completed and documented within 48 hours.

Interpretation

No further interpretation is necessary.

R 400.4163 Secure facilities serving juvenile justice youth; seclusion room.

Rule 163. (1) A child caring institution shall not confine a resident in a room as punishment for misconduct except within a secure facility serving exclusively juvenile justice youth.

(2) The institution shall establish and follow a written policy, which, at a minimum, includes all of the following:

(a) Supervisory approval prior to use of seclusion as punishment.

(b) A process that allows the resident all the following:

(i) Written notice of the alleged misconduct.

(ii) Written notice of actions that can be taken to be released.

(iii) Items in subrule (2)(b)(i) and (ii) of this rule shall be provided to the resident before the seclusion begins.

(iv) If a resident is originally placed in seclusion for a reason other than a sanction and the institution determines that the confinement will also be used as a sanction, the items in subrule (2)(b)(i) and (ii) of this rule shall be provided not later than 24 hours after the resident is placed into seclusion.

(c) All sanctions of room confinement shall be for specific periods of time.

(d) A sanction of room confinement shall not exceed 72 hours inclusive of any time spent in seclusion for out-of-control behavior at the time of the incident itself. Sanctions of 72 hours shall be reserved for only the most serious misconduct.

(e) Staff shall observe the resident at intervals of 15 minutes or less and shall record the observation in a seclusion room log.

(f) The log shall include all of the following information:

(i) Name of resident.

(ii) Time of each placement.

(iii) Name of staff person responsible for each placement.

(iv) Description of specific behavior requiring use of room.

(v) Time of observations of resident.

(vi) Time of each removal from room.

(vii) Addressing of medical needs, including medication administration.

(g) An institution shall not implement a resident reintegration behavior plan that extends the period of room confinement. A resident shall be released from room confinement at the end of the specified period.

(3) Prior to establishing or changing a policy under this rule, an institution shall have written approval from the department licensing authority.

Interpretation

Written notice of the alleged misconduct and notice of actions that can be taken to be released must be signed by the resident or the reason for the absence of the signature documented.

R 400.4164 Secure facilities serving juvenile justice youth; reintegration.

Rule 164. A secure facility that serves juvenile justice youth may have policies and procedures used to reintegrate youth who have been placed in seclusion back into the program. A facility shall not use reintegration in conjunction with seclusion that has been used as a sanction for misconduct, if that would extend a resident's confinement for more hours than the original sanction or more than 72 total hours. The policy for reintegration shall include, at a minimum, all of the following:

(a) The room may only be used for the time needed to change the behavior compelling its use.

(b) When a resident has been in seclusion for more than 2 hours, the reintegration plan shall be developed at the supervisory level and shall include all of the following:

(i) A clear statement of the out-of-control behavior or risk to others that requires continued seclusion.

(ii) Target behavioral or therapeutic issues that must be resolved.

(iii) Specific reintegration requirements or behavioral or therapeutic intervention assignments and goals that must be completed while the resident is in the seclusion room, listed in writing, and shared with the resident.

(iv) If intermittent removal from the seclusion room is required for the resident to work on the specific behavioral/therapeutic intervention goals, the level of restriction from the program and goals for the period of time out of the room must be listed in writing and shared with the resident.

(v) The strategies staff are to use to aid the resident in resolving the issues requiring seclusion and reintegrating into the program.

(c) The secure facility serving juvenile justice youth shall comply with R 400.4162.

(d) A reintegration plan shall not last longer than 72 hours.

Interpretation

The strategies that staff use to aid the resident in resolving the issues requiring seclusion and reintegration into the program must be resident specific.

Documentation of program and staff assistance must be recorded.

Specific reintegration requirements or behavioral or therapeutic intervention assignments and goals that must be completed while the resident is in the seclusion room, listed in writing, shared with the resident, AND must be signed by the resident or the reason for the absence of the signature documented.

R 400.4165 Secure facilities serving juvenile justice youth; lockdowns.

Rule 165. (1) A secure facility may only use lockdown in situations that threaten facility security, including but not limited to, riots, taking of hostages, or escape plans involving multiple residents.

(2) A secure facility serving juvenile justice youth that uses lockdowns in which all residents are confined to their rooms shall have a written policy that describes the procedures to be followed and includes all of the following:

(a) Who may order a lockdown.

(b) Who is to implement the lockdown when it has been ordered.

(c) How the problem is to be contained.

(d) Procedures to be followed after the incident is resolved.

(e) Notification of the licensing authority within 24 hours after the occurrence of a lockdown.

Interpretation

No further interpretation is necessary.

R 400.4166 Discharge plan.

Rule 166. (1) *When a resident is discharged from institutional care, all of the following information shall be documented in the case record within 14 days after discharge:*

- (a) The date of and reason for discharge, and the new location of the child.*
 - (b) A brief summary or other documentation of the services provided while in residence, including medical and dental services.*
 - (c) An assessment of the resident's needs that remain to be met.*
 - (d) Any services that will be provided by the facility after discharge.*
 - (e) A statement that the discharge plan recommendations, including medical and dental follow up that is needed, have been reviewed with the resident and with the parent and with the responsible case manager.*
 - (f) The name and official title of the person to whom the resident was discharged.*
- (2) For an unplanned discharge, an institution shall provide a brief summary or other documentation of the circumstances surrounding the discharge.*

Interpretation

Discharge plans must be signed and dated by the social service worker. Facilities are strongly encouraged to have the person to whom the youth is released also sign and date the discharge summary.

R 400.4167 Case record maintenance.

Rule 167. (1) The institution shall maintain a case record for each resident.

(2) Service plans shall be signed and dated by the social services worker and the social services supervisor.

(3) Narrative entries in the case record shall be signed and dated by the person making the entry.

(4) Records shall be maintained in a uniform and organized manner, shall be protected against destruction and damage, and shall be stored in a manner that safeguards confidentiality.

(5) Resident records shall be maintained for not less than 7 years after the resident is discharged.

Interpretation

Records may be electronic if they are readily available to the licensing consultant