

EFFECTIVE
03-22-2021

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

391 NAC 7

TITLE 391 CHILDREN'S SERVICES LICENSING

CHAPTER 7 RESIDENTIAL CHILD-CARING AGENCIES

001. SCOPE AND AUTHORITY. These regulations govern licensure of residential child-caring agencies. The regulations are authorized by Nebraska Revised Statute (Neb. Rev. Stat.) §§ 71-1924 to 71-1951.

002. DEFINITIONS. The definitions in the Children's Residential Facilities and Placing Licensure Act, the Medication Aide Act, and the following apply to this chapter.

002.01 ABUSE. Any knowing, intentional, or negligent act or omission on the part of any person which results in physical, sexual, verbal or mental abuse, unreasonable confinement, cruel punishment, exploitation, or denial of essential care, treatment, or services to a child.

002.02 ADMISSION. The point of entry into a program or service; during admission processing the child receives an orientation to the facility, staff, and policies and procedures.

002.03 ASSESSMENT. A face-to-face evaluation of the child's current and past (if available) physical, mental, emotional, and behavioral health.

002.04 BODY CAVITY SEARCH. The examination and possible intrusion into the rectal or vaginal cavities to detect contraband.

002.05 CHEMICAL RESTRAINT. A medication that is used for discipline or convenience and is not required to treat medical symptoms.

002.06 CLASSROOM. An area specifically designed and equipped for conducting educational and vocational programming.

002.07 COMPLETE APPLICATION. An application that contains all of the information requested on the Department approved application form, with attestation to its truth and completeness, and that is submitted with all required fees and documentation.

002.08 CONTRABAND. Any item possessed by children or found at the facility of the licensee that is prohibited by law or that is expressly prohibited by those legally charged with the responsibility for administration and operation of the program.

002.09 CORPORAL PUNISHMENT. Any act of inflicting punishment directly on the body causing pain or injury.

002.10 CRISIS INTERVENTION MODEL. A model that identifies specialized interventions to guide, redirect, modify, or manage behavior of children. The intervention model includes an entire spectrum of activities from preventive and planned use of routines and environment, to less restrictive interventions such as positive reinforcement, verbal interventions and de-escalation techniques, to more restrictive interventions such as room confinement, physical escorts, and physical restraint.

002.11 DESIGNEE. An individual given the responsibility to act on another's behalf.

002.12 DIRECT CARE STAFF. A person who has been hired or approved by the licensee and is responsible for the day to day supervision of children in the care of the licensee.

002.13 DISCIPLINE. To establish self-control through training or instruction.

002.14 EDUCATIONAL PROGRAM. An educational plan designed to meet a child's educational needs.

002.15 EXECUTIVE DIRECTOR. The executive director, director, superintendent, president, chief executive officer, and similarly classified positions who is responsible for the daily operation of the facility.

002.16 FACILITY. A place, building (or part thereof), set of buildings, or area (whether or not enclosing a building or set of buildings) that is used for the care of children. It includes the staff, programs and services as well as the buildings and grounds.

002.17 FOOD CODE. The Nebraska Food Code as defined in Neb. Rev. Stat. § 81-2,244.01 and as published by the Nebraska Department of Agriculture, except for compliance and enforcement provisions.

002.18 HOUSEHOLD MEMBER. Any individual residing in or regularly present in the residential child-caring agency.

002.19 MECHANICAL RESTRAINT. Any device, such as, a material or piece of equipment attached or adjacent to an individual's body that the individual cannot remove easily and that restricts freedom of movement or normal access to their own body.

002.20 MULTI-DISCIPLINARY TEAM. A group of individuals, including the child and the child's parent(s) or legal guardian(s), and at least one licensed health care practitioner or licensed mental health practitioner who share their knowledge and expertise to assist and support the child and are involved in all phases of the child's care and discharge planning.

002.21 PAIN COMPLIANCE TECHNIQUE. Any intervention that intentionally causes pain to gain control of a child, such as the use of Tasers, pressure point control, and chemical sprays.

002.22 PHYSICAL RESTRAINT. Any manual method or physical or mechanical device, material, or equipment attached or adjacent to the child's body that the child cannot remove easily and that restricts freedom of movement or normal access to their own body.

002.23 PREGNANT AND PARENTING CHILD PROGRAM. A program that provides care and supervision to a pregnant child or a child who has physical custody of her own infant or toddler.

002.24 ROOM. An area with walls flush from the ceiling and at least one passageway or doorway.

002.25 ROOM CONFINEMENT. The involuntary seclusion or restriction of a child to a room or other area alone, including a child's own room, except during normal sleeping hours.

002.26 SEXUAL ABUSE. Sexual harassment, sexual coercion, or sexual assault.

003. LICENSING REQUIREMENTS AND PROCEDURES. To receive a license, an applicant must submit a complete application and meet the requirements for a license set out in statute and in this chapter.

003.01 INITIAL APPLICATION REQUIREMENTS. An applicant must submit the following documentation:

- (1) Residential child-caring agency policies and procedures;
- (2) Consent and Release of Information Form for the applicant if an individual or partnership, or for an executive director if a limited liability company or corporation, or governmental unit;
- (3) Copies of criminal history record checks current within six months for the applicant if an individual or partnership, or for an executive director if a limited liability company or corporation, or governmental unit;
- (4) Proof of adequate liability insurance or if self-insured sufficient funds to pay liability claims;
- (5) A sketch, diagram, or blueprint of the facility showing the dimensions, arrangement of rooms, and how each room will be utilized;
- (6) A copy of zoning approval from the relevant jurisdiction; and
- (7) Proof of fire safety approval.

003.01(A) PHYSICAL PLANT AND ENVIRONMENTAL REQUIREMENTS. Before a license is issued sanitation and environmental requirements in this chapter must be met.

003.02 RENEWAL APPLICATION REQUIREMENTS. An applicant must submit a complete application and meet the requirements for a license set out in statute and in this chapter. An applicant must submit the following documentation:

- (A) Proof of adequate liability insurance or if self-insured sufficient funds to pay liability claims; and
- (B) A certificate of occupancy issued by the state fire marshal or delegated authority within the previous 18 months.

003.03 CHANGE OF OWNERSHIP. The new owner must apply for a license as required in this chapter except that a sketch, diagram, or blueprint of the facility is not required, unless the new owner changes building usage.

004. GENERAL REQUIREMENTS. The following requirements are applicable to all licenses.

004.01 EFFECTIVE DATE AND TERM OF LICENSE. A residential child-caring agency license will expire on March 31 of each calendar year.

004.02 LICENSE NOT TRANSFERABLE. A license is issued only for the facility and person(s) named in the application and is not transferable or assignable.

004.03 OCCUPANCY. A licensee must not serve more children at any time than the maximum occupancy for which the facility is permitted. Buildings must not exceed the maximum occupancy issued by the Fire Marshal or the Department's determination, whichever is less.

004.04 ALTERNATIVE COMPLIANCE. To be considered for approval of a time limited alternative compliance with a regulation, the proposed alternative must be consistent with the overall intent and purposes of the regulation and protect the health, rights, safety, and well-being of all children in care.

004.04(A) TERMS OF ALTERNATIVE COMPLIANCE. An alternative compliance may be granted:

- (i) To permit the applicant or licensee time to come into compliance; and
- (ii) For a period of time as determined by the Department.

004.04(B) WRITTEN REQUEST. A written request for an alternative compliance must be submitted to the Department and include the following information:

- (i) The regulation for which alternative compliance is being requested;
- (ii) The reason for the alternative compliance request;
- (iii) A description of how the alternative will meet the intent of the regulation; and
- (iv) How the alternative will offer equivalent protection for all children.

004.04(C) REQUIREMENTS NOT QUALIFYING FOR ALTERNATIVE COMPLIANCE. Alternative compliance will not be granted for the following requirements:

- (i) Capacity and Ratio, except as described at 391 Nebraska Administrative Code (NAC) 7-005.05(B);
- (ii) Transportation;
- (iii) Supervision;
- (iv) Fire safety;
- (v) Criminal history and background checks;
- (vi) Staff qualifications; and
- (vii) Any regulation for which a discipline has been initiated or completed.

004.05 NOTIFICATION OF CHANGES. An amendment to the application must be submitted, in writing, to the Department:

- (A) At least 90 working days before the planned effective date for a change in:
 - (i) Location;
 - (ii) Building or building usage; or
 - (iii) Capacity.
- (B) At least five working days before a planned effective date for a change in:
 - (i) The age or gender of the children for whom care is provided; or
 - (ii) Executive director.

005. STANDARDS OF OPERATION AND CARE. The following requirements are applicable to all licenses.

005.01 RESPONSIBILITIES OF THE LICENSEE. Each license holder is responsible for the total operation of his or her or its agency or agencies. The responsibilities under the license include:

- (A) Monitoring and implementing policies to assure the appropriate administration and management of the residential child-caring agency including a written policy mandating zero tolerance toward all forms of physical abuse, sexual abuse and sexual harassment and outlining the residential child-caring agency's approach to preventing, detecting, and responding to such conduct;
- (B) Ensuring the residential child-caring agency's compliance with all applicable state statutes and regulations;
- (C) Notifying the Department immediately of any issue of financial instability;
- (D) Designating an executive director who is responsible for the day to day management and defining the responsibilities of the executive director;
- (E) Ensuring the physical, mental, and psychosocial needs of all children cared for by the residential child-caring agency are met in accordance with each child's individualized needs; and
- (F) Ensuring the reporting of suspected abuse or neglect as required by Neb. Rev. Stat. §§ 28-372 and 28-711.

005.02 EMPLOYEE AND VOLUNTEER REQUIREMENTS. The licensee must maintain a sufficient number of staff with the required training and skills necessary to supervise and meet the needs of children in the care of the licensee. The licensee must verify the credentials, education, experience, and training of staff prior to staff assuming job responsibilities and caring for children and must have procedures for verifying that such requirements are met on an ongoing basis.

005.02(A) EMPLOYEE QUALIFICATIONS. All staff and volunteers must be of good moral character and not engage in or have a history of behaviors injurious to or which may endanger the health or morals of children and meet the required qualifications. Staff employed as an executive director, program director, direct care staff supervisor, or direct care staff prior to the effective date of this chapter are deemed to be in compliance with education and experience requirements for initial qualifications.

005.02(B) EXECUTIVE DIRECTOR. The executive director must meet one of the following education and experience requirements:

- (i) Have a master's degree in social work, counseling, business, public administration, education, or a related human service; or
- (ii) Have a bachelor's degree and five years of experience in social work, counseling, business, public administration, education, or a related human service.

005.02(C) PROGRAM DIRECTOR. If the executive director is not on site or is on site but not providing direct oversight of the day to day operations of the program then the licensee must employ a program director who:

- (i) Has a master's degree in social work, counseling, business, public administration, education, or a related human service; or

- (ii) Has a bachelor's degree and three years of experience in social work, counseling, business, public administration, education, or a related human service.

005.02(D) DIRECT CARE STAFF SUPERVISOR. A direct care staff supervisor, if other than the executive director or program director, must:

- (i) Have a master's degree in social work, counseling, or a related human service; or
- (ii) Have a bachelor's degree in social work, counseling, or a related human service with two years of experience in a human service related field;

005.02(E) DIRECT CARE STAFF. Each direct care staff must:

- (i) Be at least 21 years of age; and
- (ii) Have a high school diploma or a high school equivalency diploma.

005.02(F) CRIMINAL HISTORY RECORD CHECKS. Prior to having any contact with children or families, and not less than once during each five year period, the applicant must complete a fingerprint based national criminal history record check for each staff member and volunteer age 18 or older. If the residential child-caring agency is located in a private home a fingerprint based national criminal history record check must also be completed for each household member age 18 and older. The criminal history record check must be conducted through the Nebraska State Patrol. If an individual has lived outside the state of Nebraska during the preceding five years, the must also obtain documentation of a criminal history record check from the United States jurisdictions of residence. Except for minor traffic violations, the applicant or licensee must notify the Department and request a criminal history record check within five working days any time applicant or licensee becomes aware of convictions, regarding applicant or licensee, staff, or volunteers. If the residential child-caring agency is located in a private home such notification must also be made for household members. Licensees and individuals employed prior to the effective date of this chapter will not be disqualified based upon previous criminal history. Such persons can be disqualified based on criminal history occurring after the effective date of this chapter. Applicants and licensees may not have owners that have convictions that would disqualify them to be a licensee, staff member or household member.

005.02(F)(i) PERMANENT DISQUALIFICATION. An individual or entity is permanently disqualified from holding a license, residing in, or working as a staff member or volunteer if the individual or entity has a criminal history including conviction of any unlawful act endangering the health or safety of another individual. Such convictions include crimes: against a child or vulnerable adult, involving intentional bodily harm, or involving moral turpitude on the part of the individual or entity. These crimes include but are not limited to:

- (1) Aggravated or armed robbery;
- (2) Assault, first or second degree;
- (3) Child abandonment;
- (4) Child abuse or neglect;
- (5) Child molestation or debauching a minor;
- (6) Commercial sexual exploitation of a minor;
- (7) Felony domestic violence or violation of custody;

- (8) Felony exploitation of a minor involving drug offenses or conviction of drug offenses that involved a minor;
- (9) Felony controlled substances offenses, other than possession;
- (10) Human trafficking;
- (11) Incest;
- (12) Kidnapping;
- (13) Murder, first or second degree;
- (14) Sexual abuse of a minor;
- (15) Sexual assault;
- (16) Sexual exploitation of a minor, including child pornography; or
- (17) Voluntary manslaughter.

005.02(F)(ii) TWENTY-YEAR DISQUALIFICATION. An individual or entity is disqualified for 20 years from holding a license, residing in a residential child-caring agency, or working as a staff member or volunteer if the individual or entity has a criminal history that includes, but is not limited to, conviction of:

- (a) Arson;
- (b) Assault, third degree, two or more convictions;
- (c) Burglary, two or more convictions;
- (d) Criminal non-support;
- (e) Driving under the influence, four or more convictions;
- (f) Felony fraud, forgery, or theft;
- (g) Felony possession of controlled substance offenses;
- (h) Felony vehicular homicide;
- (i) Felony terrorist threats;
- (j) Misdemeanor domestic violence or violation of custody; or
- (k) Robbery.

005.02(F)(ii)(1) DISQUALIFICATION TIMEFRAME. The disqualification period begins the date the conviction became final. Any time an individual or entity is completing the sentence is not included in the calculation of the disqualification period. An individual or entity is disqualified during the time the individual or entity is completing the sentence.

005.02(F)(iii) FIVE-YEAR DISQUALIFICATION. An individual or entity is disqualified for 5 years from holding a license, residing in a residential child-caring agency, or working as a staff member or a volunteer if the individual or entity has a criminal history that includes, but is not limited to, conviction of:

- (a) Assault, third degree;
- (b) Burglary;
- (c) Contributing to the delinquency of a minor;
- (d) Driving under the influence: two convictions;
- (e) Felony insufficient fund or no account check writing;
- (f) Felony criminal possession or unauthorized use of a financial transaction device;
- (g) Felony identity fraud or theft;
- (h) Misdemeanor controlled substances offenses;
- (i) Misdemeanor failure to report child abuse;

- (j) Misdemeanor fraud, forgery or theft;
- (k) Misdemeanor terroristic threats;
- (l) Misdemeanor vehicular homicide; or
- (m) Public indecency.

005.02(F)(iii)(1) DISQUALIFICATION TIMEFRAME. The disqualification period begins the date the conviction became final. Any time an individual or entity is completing the sentence is not included in the calculation of the disqualification period. An individual or entity is disqualified during the time an individual or entity is completing the sentence.

005.02(F)(iv) OTHER COMPLAINTS, INDICTMENTS AND CONVICTIONS. The Department may determine that an individual or entity may hold a license or work as a staff member or a volunteer with a pending complaint, indictment, or conviction of other crimes if the Department determines the individual or entity has the present character and fitness to work with children. In making this determination the Department may consider the following factors:

- (1) The age of the individual at the time of the conduct;
- (2) The recency of the conduct;
- (3) The seriousness of the conduct;
- (4) The factors underlying the conduct;
- (5) The cumulative effect of the conduct;
- (6) The evidence of rehabilitation;
- (7) The individual's positive social contributions since the conduct;
- (8) The individual's honesty in providing information; and
- (9) The materiality of any omissions or misrepresentations.

005.02(F)(v) PARENTAL RIGHTS TERMINATED. An individual is permanently disqualified from holding a license, residing in a residential child-caring agency, or working as a staff member or volunteer if the individual has had his or her rights as a parent terminated by a court because of a finding of abuse or neglect of a child or inability to care for a child.

005.02(G) REGISTRY CHECKS. The applicant or licensee must complete a pre-employment registry check, and not less than once during each five year period, on each staff member, volunteer, and each household member who resides at a location where the licensee will provide services, appropriate to the age of the individual. If an individual has lived outside the state of Nebraska as an adult then the applicant or licensee must obtain pre-employment registry check from the United States jurisdictions where the individual resided in the preceding five years. Any individual who is listed as a perpetrator on any of the registries must not be a staff, volunteer, or household member. The following registries must be checked:

- (i) Nebraska Child Abuse and Neglect Central Registry, if the individual is age 13 or older;
- (ii) Nebraska Adult Protective Services (APS) Central Registry if the individual is age 18 or older; and
- (iii) State Patrol Sex Offender Registry, if the individual is age 18 or older.

- (iv) Equivalent registries in (i) through (iii) in other states and United States jurisdictions must be checked for individuals who have lived outside of the state of Nebraska as an adult.

005.02(H) INDIVIDUAL UNDER INVESTIGATION FOR CHILD ABUSE OR NEGLECT OF A CHILD OR VULNERABLE ADULT. Any individual who is under investigation for abuse, neglect, or sexual abuse of a child or vulnerable adult must not be left alone with children until the investigation is completed and the findings are determined.

005.03 RECORDS. Records of all employees, volunteers, and household members must be kept during the period an individual is employed, used, or by the residential child-caring agency or resides at the residential child-caring agency and for a minimum of two years after the separation of the employee or volunteer or the household member leaves the residential child-caring agency. A current record for each staff person, volunteer, or household member must be maintained at the facility where the employee or volunteer is assigned or resides or be made available upon request by the Department.

005.03(A) EMPLOYEE RECORDS. Each record for an employee must include documentation of all of the following:

- (i) Name;
- (ii) Address and telephone number;
- (iii) Results of registry checks;
- (iv) Results of criminal history record check;
- (v) Date of assuming job responsibilities;
- (vi) Pre-service training;
- (vii) Statement that the employee has read and understands this chapter;
- (viii) Education;
- (ix) Social security number;
- (x) Date of hire and termination;
- (xi) Job title and job description;
- (xii) In-service training;
- (xiii) Annual performance evaluation;
- (xiv) Any disciplinary action taken or work improvement plans;
- (xv) Current driver's license if employee transports children; and
- (xvi) Vehicle insurance if employee transports children in own vehicle.

005.03(B) VOLUNTEER RECORDS. Each record for a volunteer must include the documentation required in 391 NAC 7-005.03(A)(i) through (iv) and of the following:

- (i) Start date;
- (ii) A written schedule that includes the hours and days of the week the individual serves as a volunteer; and
- (iii) Training completed on the residential child-caring agency's policies and procedures.

005.03(C) HOUSEHOLD MEMBER RECORDS. Each record for a household member must the documentation required in 391 NAC 7-005.03(A)(i) through (iv).

005.04 EMPLOYEE TRAINING. Written documentation of the completion of all training must be available at the facility where the staff is working for the Department to review and must include:

- (1) Name of the employee;
- (2) Name of the training;
- (3) Date the training was completed; and
- (4) Number of hours each training took to complete.

005.04(A) PRE-SERVICE TRAINING. Staff must have completed 30 hours of pre-service training prior to having direct responsibility for care and services to children which must include:

- (i) Job duties and responsibilities;
- (ii) Policies and procedures specific to job duties;
- (iii) Residential child-caring agency policies and procedures;
- (iv) Child rights;
- (v) The residential child-caring agency's policy mandating zero tolerance toward all forms of abuse including sexual abuse and sexual harassment;
- (vi) How to establish appropriate boundaries and avoid inappropriate relationships with children;
- (vii) Confidentiality of children's records and children's medical information;
- (viii) Child service plans;
- (ix) Universal precautions for infection control practices including hand washing techniques, personal hygiene, and disposal of infectious material;
- (x) Information on any physical and mental special care needs of the children;
- (xi) Information on statutes regarding abuse and neglect reporting procedures;
- (xii) Disaster preparedness plans including fire evacuation and tornado shelter plans;
- (xiii) Crisis management; and
- (xiv) Trauma informed care.

005.04(B) ONGOING TRAINING. Each direct care staff must obtain 20 clock hours of training annually directly related to the skills necessary to care for children in out-of-home placement.

005.04(C) ACTIVITIES COUNTED AS TRAINING. Training activities must be directly related to the skills necessary to care for children and may be counted on an hour-for-hour basis. Study of written material may be counted as one training hour per 50 pages of written material.

005.04(D) CARDIOPULMONARY RESUSCITATION AND FIRST AID TRAINING. To qualify as acceptable cardiopulmonary resuscitation and first aid training the training must be obtained from an entity that has been approved by the Nebraska Board of Emergency Services. The cardiopulmonary resuscitation card and documentation of first aid training must be available upon request.

005.04(E) TRAINING OF VOLUNTEERS. Prior to assuming their duties, all volunteers must be trained on the policies and procedures of the residential child-caring agency.

005.05 STAFF-TO-CHILD RATIO. The Department will only consider staff who are in the same room or within reasonable hearing distance of children when determining if staff-to-child ratio is met. At least one direct care staff person must be on duty for every six children in care at all times. At least one staff member with current cardiopulmonary resuscitation certification and first aid training must be on duty at all times.

005.05(A) VOLUNTEER. A volunteer must be directly supervised by staff when working with children and cannot be counted in ratio.

005.05(B) ALTERNATIVE COMPLIANCE. The Department, may in its discretion, approve such request for an alternative compliance to allow one direct care staff person on duty for every 10 children in care between the hours of 12:00 a.m. until 6:00 a.m. for a period not to exceed one year. A licensee may request renewal of an approved request by submitting updated information. A licensee wanting to have such alternative compliance must submit a request for this alternative compliance to the Department which must include:

- (i) A detailed description of the licensee's plan to meet the physical, behavioral, and emotional needs of all children and to ensure the safety of all children and staff; and
- (ii) A detailed plan to provide additional staff in the event of escalated behavior on the part of a child(ren) in placement or any emergency situation.

005.05(C) SUPERVISION. Adequate supervision must be provided to children at all times. The licensee must have and implement written policies and procedures to ensure adequate supervision is provided. Such policies and procedures must include:

- (i) Anticipating and planning for behaviors and conflicts among the child population;
- (ii) Knowing the whereabouts of all children at all times when children are in care, on or off the premises;
- (iii) Being alert, attentive, and responsive to the needs of all children;
- (iv) Protecting and ensuring the safety of all children in care; and
- (v) Reporting all incidents to of violence toward staff or children in placement to the Department within one working day.

005.06 THE CHILD'S RIGHTS. The licensee must establish and implement a Bill of Rights that will be equally applicable to all children. The licensee must protect and promote these rights and afford children the opportunity to exercise their rights. The child and parent or legal guardian must be given a copy of the Bill of Rights before the licensee provides services to the child. The Bill of Rights must address that each child has the right to:

- (A) Receive services provided by the licensee;
- (B) Participate in the planning of the child's care and receive instruction and education regarding the plan;
- (C) Request information regarding the child's care;
- (D) Receive services without discrimination as to race, color, creed, age, or national origin;
- (E) Have contact with family, friends, and other persons significant to the child;
- (F) Exercise religious beliefs or cultural traditions;
- (G) Access educational services;

- (H) Be accepted for services only if the licensee has the ability to provide safe and professional care;
- (I) Personal privacy and confidentiality of all records, communications, personal information, grievances and complaints, except as otherwise provided by law;
- (J) Receive policies and procedures for admission, discharge, and termination of services at the time of admission;
- (K) Voice complaints or grievances, including to outside agencies, and suggest changes in services or staff without fear of reprisal or discrimination and be informed of the resolution;
- (L) Be free from verbal, physical, psychological, sexual abuse or harassment and to be treated with dignity;
- (M) Expect all efforts will be made to ensure continuity and quality of care;
- (N) Have the child's person and property treated with respect;
- (O) Be informed, in advance, about the care to be furnished, and any changes in the care to be furnished;
- (P) Be free from chemical and mechanical restraints except as part of the child's individual treatment plan; and
- (Q) Have the opportunity to participate in community activities appropriate to age and cultural heritage, and interests.

005.07 COMPLAINT PROCESS. The licensee must allow staff, children, parents, guardians, and others to submit complaints or grievances to the licensee. Written policies and procedures must be established and implemented by licensee to address and document complaints or grievances received and include:

- (A) A procedure for submission of complaints that is made available to staff, children, parents, guardians, and others;
- (B) Time frames and procedures for review, investigation of complaints and provision of responses to address complaints. Children must be provided multiple internal ways to privately report sexual abuse, retaliation by other children or staff, and staff neglect which may have contributed to such incidents;
- (C) A description of how information from complaints and responses is used to improve the quality of care and services for children; and
- (D) A method to ensure that the telephone number of the Nebraska Child Abuse and Neglect Hotline and the child's parent, guardian, or other legal custodian is readily available to children, employees and others who wish to lodge complaints.

005.08 PROGRAM DESCRIPTION. The licensee must ensure that a written description of the facility and type of services provided is available to staff, children, parents, guardians or their designees, and members of the public and includes:

- (A) Ownership;
- (B) The goals and objectives of the licensee;
- (C) The description of the children to be served, including age, gender, care needs, and any other relevant characteristics;
- (D) The composition of staff and their qualifications;
- (E) The job responsibilities of staff;
- (F) The discipline model for children in care; and
- (G) How the program will address:
 - (i) Academic and vocational education;

- (ii) Use of a library;
- (iii) Money management training;
- (iv) Religious instruction, according to the child's own faith or that of the child's parents;
- (v) Nutrition and dietary education;
- (vi) Recreation; and
- (vii) Community contacts.

005.09 QUALITY ASSURANCE AND IMPROVEMENT. The licensee must develop and implement a written quality assurance and improvement plan with input from staff, children, parents, guardians and other community partners. The plan must be reviewed and updated annually and describe:

- (A) How feedback will be utilized to improve services; and
- (B) Methodology for monitoring, evaluating, and improving services.

005.10 ADMISSION POLICY AND PROCEDURE REQUIREMENTS. Acceptance of a child must be based on the licensee's assessment of the licensee's ability to meet the identified needs of the child. The licensee must establish and implement written policies and procedures for admission of a child to the facility. The policies must address how the licensee will:

- (A) Assess and address the immediate needs of a child including the severity of the needs and the need for supervision of the child;
- (B) Review admission information and makes admission decisions, including which staff are responsible;
- (C) Assess its ability to meet the needs of the child based upon staff, facility, service, program structure, and available community services;
- (D) Identify special health care needs which the licensee is not able to meet;
- (E) Obtain written information for a child's record to include:
 - (i) Full name;
 - (ii) Date of birth;
 - (iii) Date of admission;
 - (iv) A referral from the licensed child-placing agency, when applicable;
 - (v) Legal custodian;
 - (vi) Consent of the legal custodian for placement or a copy of the approved Interstate Compact on the Placement of Children (ICPC) agreement;
 - (vii) Written documentation of complete medical and dental examinations current within the past year;
 - (viii) Consent from the legal custodian for medical, dental, vision and emergency treatment;
 - (ix) Medical needs, medications, and allergies, including food allergies and dietary restrictions;
 - (x) A list of persons with whom the child may have contact; and
 - (xi) An inventory of personal items to be updated as the inventory changes; and
- (F) Orient the child to the facility which includes:
 - (i) A tour;
 - (ii) Introduction to staff;
 - (iii) Description of rules and discipline policies;
 - (iv) Discussion of tasks and behaviors the child is expected to perform;
 - (v) Discussion regarding personal possessions the child is permitted to have; and

- (vi) Providing information which describes the licensee's zero tolerance policy of sexual abuse and sexual harassment and how to report incidents or suspicions.

005.11 CHILD RECORD. The licensee must maintain a record for each child in care. Each record must contain the information required by 391 NAC 7-005.10(E) and the following:

- (A) Current educational information including: grade reports, scholastic achievement, and social adjustment;
- (B) Medical, dental, and vision records including: examinations, immunizations, illnesses, and follow-up treatments;
- (C) Psychological or psychiatric testing, examination, and follow-up treatment, if obtained;
- (D) Visits to the child and contacts with child's own family and services provided or arranged; and
- (E) Written service delivery or case plan for the child which must include documentation that meets the requirements in 391 NAC 7-005.12(F).

005.12 CHILD'S CARE. All children receiving care must have:

- (A) Complete medical and dental examinations annually;
- (B) Complete vision exam every other year;
- (C) Immediate medical, dental, and vision care when an emergency arises;
- (D) All required immunizations;
- (E) Necessary treatment for any physical or mental health care needs; and
- (F) A written service delivery or case plan for each child which must:
 - (i) Be completed within thirty (30) days of admission; and
 - (ii) Be updated quarterly while the child is in care and address:
 - (1) Health care;
 - (2) Education or vocational planning;
 - (3) Permanency objective;
 - (4) Discharge planning; and
 - (5) Have written reports of the child's progress toward achieving the goals sent at least monthly to the child's parent or guardian.

005.13 TOILETRIES. Each child in care must be provided individual:

- (A) Body soap;
- (B) Shampoo;
- (C) Towels; and
- (D) Washcloths.

005.14 DISCIPLINE. The licensee must have written policies and procedure that establish how and when the licensee will discipline children. The licensee must:

- (A) Use discipline only as a learning process in which certain specified consequences are the result of unacceptable behavior;
- (B) Use discipline models which encourage children to achieve service plan goals;
- (C) Incorporate discipline in the child's daily programming model;
- (D) Apply discipline in a consistent manner;
- (E) Provide positive reinforcement and reward; and
- (F) Allow natural consequences to occur.

005.15 CHILD BEHAVIOR THAT CANNOT BE DISCIPLINED. Children must not be disciplined for:

- (A) Toileting accidents, including bed wetting;
- (B) Refusal to take medication; or
- (C) Refusal to eat.

005.16 PROHIBITED ACTIONS. Children must not be subjected to:

- (A) Spanking;
- (B) Slapping;
- (C) Pinching;
- (D) Punching;
- (E) Shaking;
- (F) Striking with any object;
- (G) Placing soap, hot sauce, or other unpleasant food or non-food items in a child's mouth;
- (H) Handling roughly;
- (I) Biting;
- (J) Denial of food;
- (K) Extensive time-out;
- (L) Derogatory remarks about the child or the child's family;
- (M) Abusive or profane language;
- (N) Yelling or screaming;
- (O) Threats of physical punishment;
- (P) Mechanical or chemical restraints except as a physician ordered part of the child's individual treatment plan;
- (Q) Denial or reduction of family contact or visitation; or
- (R) Imposition of discipline by one child upon another.

005.17 PROHIBITED LANGUAGE, MATERIALS, AND ACTIONS. Children must not be exposed to:

- (A) Profanity;
- (B) Sexually explicit material;
- (C) Acts of violence toward a person or animal; or
- (D) Acts of discrimination.

005.18 TRANSPORTATION. When transportation is provided by the licensee the following requirements must be met:

- (A) Any individual who transports children must possess a current and valid driver's license;
- (B) Smoking is not permitted in any vehicle used to transport children;
- (C) No vehicle may be used to transport more passengers than the seating capacity of the vehicle, as indicated by the manufacturer, allows;
- (D) Staff-to-child ratio must be maintained;
- (E) Any vehicle used to transport children must:
 - (i) Be operable and properly maintained;
 - (ii) Be clean and free of hazards;
 - (iii) Be registered;
 - (iv) Be insured;

- (v) Be equipped with a first aid kit; and
- (vi) Have doors locked at all times when in motion;
- (F) Children being transported must:
 - (i) Not be left alone in a vehicle at any time if under 14 years of age;
 - (ii) Be adequately supervised at all times;
 - (iii) Be properly secured in an appropriate restraint system;
 - (iv) When required by law, be in car seats that:
 - (1) Meet federal standards;
 - (2) Are the correct type for the child's age and developmental level; and
 - (3) Are properly secured; and
 - (v) Be school age or older when transported in buses over 10,000 pounds that are not equipped with restraint systems.

005.19 TRANSPORTATION POLICIES AND PROCEDURES. The licensee must have written policies and procedures that establish and implement how children will be transported in compliance with this chapter and must include:

- (A) Emergency procedures in the event a child becomes ill, the vehicle breaks down or is involved in an accident, or other emergencies; and
- (B) How it will address the presence or absence of other passengers besides staff and children in the vehicle.

005.20 MEDICATION. When the licensee utilizes licensed health care professionals for whom medication administration is included in the scope of practice, the licensee must ensure the medications are properly administered in accordance with prevailing professional standards. When the licensee utilizes persons other than a licensed health care professional to provide medications the licensee must follow the requirements of the Medication Aide Act and 172 NAC 95 and 96. Only staff authorized by the executive director of the residential child-caring agency may have access to medications. Children must receive prescription medication only as legally prescribed by a healthcare practitioner and in accordance with the prescription.

005.20(A) MEDICATION RECORD KEEPING. A written record of medication administration must be kept separately for each child and be available for review by the Department. For any prescription or non-prescription medication provided to a child the record must include the:

- (i) Name of the child;
- (ii) Name of the medication;
- (iii) Name of prescriber;
- (iv) Amount or dosage;
- (v) Route the medication is provided;
- (vi) Time medication is provided;
- (vii) Name of staff person responsible for providing the medication;
- (viii) Any drug allergies; and
- (ix) If the medication is not administered, the reason for the lack of administration.

005.20(B) MEDICATION ERRORS. Medication errors must be clearly documented and reported to the child's parent or legal guardian and any individual responsible for monitoring medication administration for the child.

005.20(C) STORAGE OF MEDICATION. Prescription and non-prescription medications must be stored in the following manner:

- (i) All non-emergency prescription and non-prescription medications must be kept in locked storage at all times children are in care;
- (ii) All emergency prescription and non-prescription medications must be inaccessible to children and supervision must be provided to ensure children do not have access;
- (iii) Separate locked storage must be provided for medications requiring refrigeration;
- (iv) All medications must be kept in the original container and all prescription medication must have a prescription label; and
- (v) All prescription medications must be returned to the parent or guardian or a dispensing pharmacy when no longer needed. All non-prescription medication must be returned to the parent or guardian or disposed of when no longer needed.

005.20(D) EXPIRED AND UNUSED MEDICATION. Expired and unused medications must be handled in the following manner:

- (i) Any expired medication must not be given to the child and must be disposed of properly and a written record kept of the date the medication was disposed, by what method, and by whom;
- (ii) Any unused medication, provided directly by the parent or guardian, which has not expired must be returned to the parent or guardian or disposed of in an appropriate manner as directed by the parent or guardian. A record must be kept of the date the medication was disposed, by what method, and by whom; and
- (iii) Any unused medication, not provided directly by the parent or guardian, must be disposed of properly and a record kept of the date the medication was disposed, by what method, and by whom.

005.21 FOOD SERVICE. Meals and snacks must be appropriate for the age and development of the child, address children's food allergies and intolerance; and meet established United States Department of Agriculture requirements regarding food groups and serving sizes. If the meals and snacks do not meet United States Department of Agriculture requirements the licensee must obtain a statement from a physician, which must be made available for review by the Department, indicating it is acceptable for the child to be served meals and snacks that do not meet United States Department of Agriculture requirements. If the licensee contracts for the services of an outside food service management company, the licensee remains responsible for compliance with the applicable regulations.

005.21(A) MENUS. Menus must be approved by a registered dietician. Menus must be:

- (i) Modified to accommodate special diets and texture adaptations as needed by the child; and
- (ii) Available to child, parent or legal guardian, and the Department.

005.21(B) FOOD SAFETY. The licensee must meet and maintain sanitation and environmental requirements at all times and be in compliance with the Nebraska Food Code.

005.22 EMERGENCY PREPAREDNESS. The licensee must meet and maintain the following emergency preparedness requirements.

005.22(A) TELEPHONE. A working, non-coin operated telephone must be available at the facility at all times. Emergency telephone numbers, including fire, rescue, police (or 911) and Poison Control, must be prominently posted.

005.22(B) FIRE AND TORNADO DRILLS. Fire and tornado drills must be practiced with the children and staff. Written documentation of drills, including dates conducted, must be kept and available for review by the Department:

- (i) Fire drills must be completed a minimum of once per month. At least one fire drill per year must be practiced during sleeping hours.
- (ii) Tornado drills must be completed a minimum of four times per year during the months of March through September. At least one tornado drill per year must be practiced during sleeping hours.

005.22(C) FIRE AND TORNADO SAFETY DIAGRAMS. Fire and tornado safety diagrams must:

- (i) Show the layout of the facility and the surrounding area;
- (ii) Be prominently posted and visible in each room where care is provided;
- (iii) Include how the evacuation of children with special needs will be conducted;
- (iv) Include fire evacuation routes; and
- (v) Include tornado safety locations.

005.22(D) DISASTER PREPAREDNESS. The licensee must have and implement written plans and procedures which must address and delineate how, during a disaster, the licensee will:

- (i) Maintain the proper identification of each child to ensure that care coincides with the child's needs;
- (ii) Move children to points of safety or provide other means of protection when all or part of the building is damaged or uninhabitable due to natural or other disaster.
- (iii) Protect children during the threat of exposure to the ingestion, absorption, or inhalation of hazardous substances or chemicals;
- (iv) Provide food, water, medicine, medical supplies and other necessary items for care; and
- (v) Provide comfort, safety, and well-being of children in the event of 24 or more consecutive hours of:
 - (1) Electrical or gas outage;
 - (2) Heating, cooling, or sewer system failure; or
 - (3) Loss or contamination of water supply.

005.22(E) NOTIFICATION TO THE DEPARTMENT OF EMERGENCIES. The licensee must document and notify the Department of Health and Human Services, Division of Public Health, Office of Children's Services Licensing or its successor within 24 hours or next business day of the following occurrences:

- (i) The death of a child;
- (ii) Any incident that involves staff assaulting a child;
- (iii) Any incident that involves children assaulting staff that requires medical treatment by a licensed health care facility;
- (iv) Any allegation of sexual abuse involving a child; and

- (v) An emergency or disaster that results in significant damage which impacts the ability to provide care for children at the licensed location.

005.22(F) FIRST AID KIT. A first aid kit must be available at the facility and inaccessible to children. If any poisons or medications are stored in the kit, the kit must be kept in locked storage.

005.23 ENVIRONMENTAL MAINTENANCE AND SAFETY. The licensee must provide a safe and hazard-free environment to protect the health and safety of children in care, including:

- (1) Any building and area where children are present must be kept free of exposed lead-based paint surfaces that are flaking, peeling, or chipped;
- (2) Rooms, walls, floors, and ceilings must be kept clean, dry, in good repair, and free of odor resulting from sewage, mold, mildew, or other environmental or biological hazards or unsanitary conditions;
- (3) Heating, ventilation, and lighting in all rooms used for children must be operable and suitable;
- (4) The entrance, harborage, or breeding of rodents, flies and all other insects and vermin must be prevented. All doors opening to the outside must be self-closing (except sliding doors) and all windows used for ventilation and all opening to the outside must be screened;
- (5) All garbage and rubbish must be disposed of in a manner that minimizes odor and the transmission of infectious diseases, and prevents the attraction of rodents, flies, and all other insects and vermin. This includes:
 - (i) All outdoor and indoor containers used for disposal of food, bodily fluids, or other odorous materials must be watertight, have tight fitting covers, and be insect and vermin proof;
 - (ii) Keeping all garbage and rubbish containers clean; and
 - (iii) Not burning garbage at the facility;
- (6) Carpeting is prohibited in a bathroom, except for removable, washable, and non shag throw rugs;
- (7) Carpeting is prohibited in the food preparation or storage area;
- (8) Walls must be smooth and made of easily cleanable construction;
- (9) A process for routine and preventative maintenance of equipment, fixtures, furnishings, and toys so they are kept clean, safe, in good repair, and available to meet the intended use must be developed and followed. This includes ensuring no sharp edges, rust, or loose parts;
- (10) Furniture and equipment must be arranged so as not to interfere with exits;
- (11) All poisonous or toxic materials must be kept in locked storage at all times;
- (12) Cleaning agents must be inaccessible to children under age ten;
- (13) All firearms, other potentially hazardous weapons, weapon accessories, and ammunition must not be at the facility;
- (14) Electrical outlets within reach of children under age six must be covered with safety caps, ground fault interrupters, or have safety outlets installed;
- (15) Shared use of the following items is prohibited:
 - (a) Disposable towelettes;
 - (b) Drinking containers, cups, or glasses;

- (c) Personal care items such as toothbrushes, shampoo, conditioner, deodorant, and razors;
 - (d) Hair brushes and combs; and
 - (e) Towels and washcloths; and
- (16) Deep freezers that cannot be opened from the inside must be locked or stored in a locked room.

005.23(A) SMOKING AND USE OF ELECTRONIC CIGARETTES. Smoking anywhere indoors is prohibited at all times. Use of electronic cigarettes anywhere indoors is prohibited at all times.

005.23(B) ALCOHOL AND CONTROLLED SUBSTANCES. The unlawful use or possession of alcohol is prohibited. The unlawful use or possession of controlled substances, as defined by the Uniform Controlled Substance Act, is prohibited.

005.23(C) ANIMALS AND PETS. Any animal or pet at the facility must not negatively affect the children. The licensee must:

- (i) Complete all vaccinations as recommended by the licensed veterinarian that include, at a minimum, current vaccination for rabies for dogs, cats and ferrets;
- (ii) Have provision of pet care necessary to prevent the acquisition and spread of fleas, ticks and other parasites;
- (iii) Ensure that no animals are allowed in the food preparation, food storage, or serving areas during food preparation and serving times; and
- (iv) Comply with any state or local law or ordinance relating to the care and ownership responsibilities of pets or specific breeds identified by those laws or ordinances.

005.24 SPECIFIC SERVICE REQUIREMENTS AND PROVISIONS. In addition to the requirements in 391 NAC 7-005.01 to 005.23(S) the licensee must establish and implement written policies and procedures to meet the requirements listed for each service it provides as prescribed in 391 NAC 7-005.24.

005.24(A) PREGNANT AND PARENTING CHILD SERVICE. If services are provided to pregnant and parenting children the following requirements must be met:

005.24(A)(i) GENERAL REQUIREMENTS. The licensee must:

- (1) Have a written plan for infant and toddler safety including a plan for an infant or toddler whose mother is unable or unwilling to provide care;
- (2) Provide a complete written description of its program to the child, parent, guardian or legal custodian, and the Department;
- (3) Develop a training plan to ensure that staff working with pregnant and parenting children develop skills and knowledge regarding pregnancy, infant and child care;
- (4) Provide bedrooms separate from children in other programs; and
- (5) Have at least two direct-care staff providing care to children at all times and count infants and toddlers in ratio and capacity as follows:
 - (a) An infant or toddler is not counted in the ratio when the licensee is not responsible for care of the infant or toddler;

- (b) An infant or toddler must be counted in the ratio when the licensee is responsible for the care of the infant or toddler; and
- (c) An infant or toddler must always be counted in the capacity number.

005.24(A)(ii) HEALTH CARE SERVICES. The licensee must have the following:

- (1) There must be a written plan for all deliveries to take place in a licensed hospital;
- (2) Medical care and services:
 - (a) Each child must receive the services of a healthcare practitioner on a regular and continuing basis throughout pregnancy, delivery, and post-delivery checkups; and
 - (b) The program must provide for consultation from a physician who must be available in an emergency; and
- (3) Medical record for a pregnant or parenting child must include:
 - (a) A completed medical consent form;
 - (b) The name of the health care provider;
 - (c) A schedule of appointments;
 - (d) The expected date of delivery; and
 - (e) Documentation of any special needs or problems related to pregnancy.

005.24(A)(iii) CASE SERVICE PLAN. A written case service plan for each child in care must be developed within one month after the child's admission and involve the child, staff, and other individuals who must legally be involved in the planning for the child and include:

- (1) Preparation for delivery of the infant;
- (2) Plans regarding postnatal after discharge from the hospital;
- (3) Decision making in relation to the day to day care of the infant;
- (4) Counseling for the father when appropriate;
- (5) Counseling for the families of the child;
- (6) Employment or education planning;
- (7) Counseling regarding legal rights and obligations in relation to parenthood;
- (8) Preparation for parenthood and family life for mothers choosing to parent their infants;
- (9) Adoption counseling provided by a licensed child-placing agency approved to provide adoption services for those mothers interested in or planning to relinquish parental rights to their infants;
- (10) Socialization and support opportunities for single parents; and
- (11) Discharge plans that include information regarding postnatal care.

005.24(A)(iv) RELINQUISHMENT OF AN INFANT. At the request of the child, staff must arrange for referral to a licensed child-placing agency which provides adoption services.

005.24(B) SERVING BOTH CHILDREN AND ADULTS. When a licensee provides care to both adults and children the children must be separated from adults by sight and sound at all times care is being provided. Licensee must have and implement written policies and procedures to ensure such separation is maintained at all times.

005.24(C) INDEPENDENT AND TRANSITIONAL LIVING SERVICE. A licensee providing independent and transitional living services to children must:

- (i) Within 30 days of placement develop a written service delivery or case plan which meets the requirements in 391 NAC 7-005.10(E) and the following documentation:
 - (1) Money management and consumer awareness;
 - (2) Food management;
 - (3) Personal appearance;
 - (4) Health;
 - (5) Housekeeping;
 - (6) Job seeking skills;
 - (7) Job maintenance skills;
 - (8) Emergency and safety skills;
 - (9) Interpersonal skills;
 - (10) Legal resources;
 - (11) Leisure activities; and
 - (12) Housing;
- (ii) Supervise the child. Supervision must include the following:
 - (1) Ensuring participation in an educational, vocational, or work program;
 - (2) Establishing a curfew based upon the individual needs of the child;
 - (3) Protecting the child from harm while at the facility; and
 - (4) Having daily face-to-face contact with the child; and
- (iii) Maintain staffing to ensure the safety and supervision needs of all children are met at all times.

005.25 DRUG TESTING. Written permission from the child's legal guardian must be obtained prior to testing a child. The licensee must have and implement written policies and procedures which must include:

- (A) Circumstances under which drug testing will occur;
- (B) The types of materials and "kits" to be used;
- (C) Who will be authorized to perform any part of the testing process;
- (D) How the process will be initiated with the child;
- (E) How the child will be observed;
- (F) How the sample will be obtained;
- (G) When the sample will be obtained;
- (H) How the sample will be tested;
- (I) How the licensee will prevent tampering or manipulation through each of the following means:
 - (i) Substitution;
 - (ii) Use of additives; and
 - (iii) Cleansing or detoxification procedures;
- (J) What will be the response to a positive test;
- (K) The documentation that will be completed; and
- (L) Who will be notified of the test and the results.

005.26 SEARCH OF A CHILD AND POSSESSIONS. Written permission from the child's legal guardian must be obtained prior to staff performing a search. The licensee must have and implement written policies and procedures which must include:

- (A) Circumstances under which a search of the child and their possessions will be conducted;
- (B) Searches must never be done to punish or harass a child;
- (C) Who will be conducting the search. At least one staff must observe the search conducted by another staff;
- (D) How the search process will be initiated with the child. The child must be given the opportunity to hand over any contraband in their possession prior to a search being initiated;
- (E) The response to finding a child in possession of contraband;
- (F) Who will be notified of the search and the result;
- (G) Arrangements for transfer or disposition of any contraband found on the child or the child's possessions;
- (H) The requirements for searches of children and possessions as found in 391 NAC 7-005.27 and 005.28; and
- (I) Documentation that will be completed.

005.27 PERSON SEARCHES. Strip searches and body cavity searches are prohibited. A search of a child's person must be conducted in the following manner:

- (A) A child may be asked to remove their exterior garments such as sweaters, sweatshirts, jackets, belts, and shoes;
- (B) The physical contact part of any search must be done through the child's clothing and only by staff of the same gender as the child;
- (C) The staff shall make no skin to skin contact with the child;
- (D) The staff shall make no contact with the erogenous zones of the child's body. Erogenous zones include the genital and buttocks areas of both genders and the chest area of females; and
- (E) Only a reasonable amount of pressure may be applied to any area of the body.

005.28 SEARCH OF CHILD'S POSSESSIONS. A search of a child's possessions must be done in the following manner:

- (A) The possessions of a child must be handled with care and respect; and
- (B) Upon the conclusion of a search the child's items must be restored to their original place and order.

005.29 PHYSICAL RESTRAINT AND ROOM CONFINEMENT. If the licensee uses physical restraint or room confinement the licensee must:

- (1) Use a Department approved crisis intervention model;
- (2) Comply with all state and federal laws and regulations;
- (3) Use physical restraint or room confinement only as part of the child's individual treatment plan;
- (4) Use physical restraint or room confinement only in emergency circumstances to ensure the immediate physical safety of the child, staff member, or others;
- (5) Use physical restraint or room confinement only after less restrictive deceleration and de-escalation interventions have been determined to be ineffective;
- (6) Be limited to the least amount of time necessary to address the situation and restore safety;
- (7) Ensure the behavioral conditions for removal of disciplinary restrictions are specified each time that restraint or room confinement is imposed;

- (8) Ensure that the child is notified, in terms the child can understand, of the criteria to be met before restraint or room confinement can end;
- (9) Use only staff trained in the implementation of the crisis intervention model;
- (10) Not allow children to restrain or impose room confinement on another child; and
- (11) Have, maintain, and implement written policies and procedures to ensure compliance with.

005.29(A) USE PROHIBITED. The following restraint and room confinement practices are prohibited and include use:

- (i) As a form of punishment or discipline;
- (ii) For the convenience of staff;
- (iii) As a substitute for care and treatment;
- (iv) Of pain compliance techniques;
- (v) Of chemical and mechanical restraints, except for a drug or medication ordered by a physician as part of the child's individual treatment plan;
- (vi) Of techniques which cause hyperextension of any part of the body (pushing or pulling of any part of the body beyond normal limits);
- (vii) Of joint or skin torsion;
- (viii) Of pressure or intensity of pressure on any part of the body not authorized by the physical restraint model;
- (ix) Of any type of choke hold; and
- (x) Of any maneuver that involves choking, punching, hitting, poking, pinching, scratching or shoving.

005.29(B) NOTIFICATION. The licensee must notify the Department whenever any staff engages in prohibited restraint or room confinement practices.

005.29(C) WRITTEN AUTHORIZATION REQUIRED. The licensee using restraint or room confinement must obtain prior written authorization from the child's guardian giving informed consent related to its potential use.

005.29(D) CHILD'S MULTI-DISCIPLINARY TEAM CONVENED. The child's multi-disciplinary team must be convened within 24 hours of the imposition of the restraint or room confinement to develop alternative effective deceleration and de-escalation techniques.

005.29(E) INCIDENT REPORT. A written incident report must be completed within 24 hours from the time the restraint or room confinement began and made available to all multi-disciplinary team members and the Department and include:

- (i) The name of the child placed in restraint or room confinement;
- (ii) Description of less restrictive intervention techniques used and why they were ineffective;
- (iii) The reason for the restraint or room confinement;
- (iv) Type of restraint used;
- (v) The date and times the restraint or room confinement began and ended;
- (vi) The name(s) of staff who restrained the child or assigned the child to room confinement;

- (vii) The assessments and monitoring provided while the child was in restraint or room confinement and immediately after the child was released from restraint or removed from room confinement;
- (viii) A statement of the behavioral conditions that the child was required to meet in order to be released from restraint or removed from room confinement;
- (ix) A summary of the debriefing that was conducted;
- (x) The frequency and types of restraints or room confinement used, over time, for the individual;
- (xi) Any injuries sustained by the staff or child;
- (xii) Any medical care needed by the child or staff as a result of the use of restraint or room confinement;
- (xiii) Documentation of internal review; and
- (xiv) Any other actual or planned follow-up actions.

005.29(F) STAFF TRAINING. Staff may not use restraints or room confinement until the staff has successfully completed training in the use of such. Training on the use of restraints and room confinement must:

- (1) Be comprehensive and competency based meeting all requirements of the crisis intervention model being implemented by the licensee. Comprehensive based training in the use of physical restraint or room confinement must involve repeated and on-going skill development, conditioned learned responses, rehearsals and practices;
- (2) Provide physical restraint or room confinement training only by certified trainers from the organization that developed the crisis intervention model selected by the licensee;
- (3) Be provided regularly and include safe and appropriate use of restraints or room confinement as well as refresher courses in alternative non-intrusive behavior modification techniques; and
- (4) Not combine components of various models for use as a licensee's identified single model except required competency in cardiopulmonary resuscitation and first aid.

005.29(F)(i) TRAINING RECORD. Written documentation of certification and re-certification training for each staff which must be available to the multi-disciplinary team members and Department staff and include:

- (1) The name of the person trained;
- (2) Date(s) of training;
- (3) Source;
- (4) Content; and
- (5) Length of each training.

005.29(G) INTERNAL REVIEW. Any licensee using room confinement or physical restraint must have a performance improvement program designed to continuously investigate, analyze, monitor, assess, and track the licensee's use of room confinement and restraint practices and to specifically address injuries or death related to the use of room confinement and restraints and must include the review of:

- (i) Training proficiency;
- (ii) Environmental triggers;

- (iii) Systems issues;
- (iv) Each use of restraint or room confinement;
- (v) Notification of family and need for medical care;
- (vi) Administrative and program policy and procedure;
- (vii) Incident debriefing and follow up; and
- (viii) Aggregate data.

006. PHYSICAL PLANT STANDARDS. All buildings, including all detached buildings, for the purpose of providing care to children must meet the following physical plant standards.

006.01 WATER SUPPLY. Have an accessible, adequate, safe, and potable supply of water for drinking, food preparation, hand washing, bathing, and laundry which is maintained and meets the following requirements:

- (A) If drinking water is obtained from a source other than a public water supply system, the water must not contain contaminants that exceed the maximum contaminant levels set for nitrate, or total coliform for public water supply systems in 179 NAC 2-002, and 179 NAC 3 or the lead action level set in 179 NAC 12. The licensee must report to the Department the results of all tests that show the water contains contaminants that exceed a maximum contaminant or action level. The water supply must be tested annually and the tests results must be available for review upon request. If the water supply does not meet nitrate, total coliform bacteria and lead standards until the contaminants are lowered to acceptable levels the licensee must:
 - (i) Obtain water from a source approved by the Department; or
 - (ii) Purchase water from a commercial source.
- (B) Provide drinking water by sanitary drinking fountains or individual or disposable cups;
- (C) Drinking fountains must have mouth guards with water issuing under sufficient pressure;
- (D) Provide sanitary dispensing and disposal unit for paper cups;
- (E) Provide running water under pressure;
- (F) Each hot water storage tank must have a working pressure and temperature relief valve;
- (G) Provide adequate cold water and adequate water heating facilities so that a sufficient amount of hot water, maintained between 100 and 120 degrees of Fahrenheit, is available for general cleaning bathing, bathing, as well as washing and sanitizing utensils; and
- (H) Provide soap for hand washing.

006.02 SEWER REQUIREMENTS. A sanitary and functioning sewage system must be maintained and either connect to a municipal sewage system or comply with the requirements set by the Nebraska Department of Environmental Quality for the operation and maintenance of an onsite wastewater system.

006.03 VENTILATION. Kitchen, bathrooms, and services rooms must have ventilation by window or mechanical means through a vent leading directly to the outside.

006.04 HEATING AND COOLING SYSTEM. All occupied buildings must have a functioning heating and cooling system with clean filters which maintains building

temperature at not less than 65 degrees Fahrenheit and not more than 85 degrees Fahrenheit.

006.05 LIGHTING. All occupied buildings must have adequate lighting in every room, hallway, interior and exterior stairway, interior and exterior doorway, porch, ramp, and fire escape.

006.06 LAUNDRY. There must be separate areas for storage of soiled linen and clean linen. Laundry services may be provided by contract or on-site. Areas dedicated to laundry must include:

- (A) An operable non-coin washer and dryer at a ratio of one washer and one dryer per every six children; and
- (B) Laundry detergent, including specific detergent for children with allergies.

006.07 CHILD LIVING AREAS. A garage, barn, shed, travel trailer, fifth wheel trailer, recreational vehicle, portable classrooms, or similar structure must not be used as a child living area. Living areas must be:

- (1) Furnished with beds, chairs, sofas, tables, and storage items that are comfortable and reflective of individual needs and intended use of the area; and
- (2) Have Fire Marshal approval for use.

006.07(A) PRIVACY ROOMS. Rooms must be available to allow privacy for interviewing a child or parents and for a child to visit relatives or guests.

006.07(B) ACTIVITY AREAS. There must be a minimum of 50 square feet of space for each child for individual or group activities.

006.07(C) LEISURE AND RECREATION. Space used for leisure and recreation must be separate from the child's bedroom and dining, meeting, and studying areas.

006.07(D) BEDROOMS. Bedrooms must:

- (i) Be designated to provide separation of males and females;
- (ii) Allow for sleeping;
- (iii) Afford privacy;
- (iv) Provide access to belongings;
- (v) Provide adequate storage for belongings;
- (vi) Accommodate the care provided to the child;
- (vii) Be approved by the Fire Marshal;
- (viii) Not be shared by more than four children;
- (ix) Contain:
 - (1) A minimum of 100 square feet of usable floor space for a private room; or
 - (2) A minimum of 70 square feet per child if the room is shared or 40 square feet per child of bedroom space for shared bedrooms in emergency shelter care; and
 - (3) A ceiling height of at least seven feet.

006.07(E) BED REQUIREMENTS. Each child must have his or her own separate bed frame that is at least two inches off the floor and which has a mattress and bedding. The

licensee must ensure a complete change of bedding is provided at least once a week or more frequently when soiled. The bed must:

- (i) Be adequate in width and length for the child's height and weight;
- (ii) Be in good condition; and
- (iii) Be spaced no closer to another bed than 36 inches laterally or end-to-end.

006.07(F) BUNK BEDS. Bunk beds may be used, if age and developmentally appropriate to the child, and must be constructed of safe, stable materials and have a sturdy ladder for access to the top bunk.

006.07(G) BATHROOMS. One operable toilet, sink, tub, or shower for every six children in care must be available. Toilets must be on the same floor as children's sleeping areas and sinks must be on a one to one ratio with toilets. Bathrooms must:

- (i) Be able to be unlocked from the outside;
- (ii) Not be accessed through another child's or staff's bedroom;
- (iii) Not open directly into a room which food, drink, or utensils are handled or stored;
- (iv) Be kept clean, in good repair, well lighted and well ventilated;
- (v) Be located in an area that is enclosed and provides for privacy;
- (vi) Be adequately supplied with toilet paper; and
- (vii) Have slip-resistant surfaces in tubs and showers.

006.08 STAFF BEDROOM AND BATHROOM. When staff live in or sleep at the residential child-caring agency, there must be at least one room adequately furnished and a private bath area reserved for staff. Staff rooms must be located in the same building as the children's sleeping rooms when counted in the staff-to-child ratio.

006.09 OUTDOOR AREAS. Any outdoor area used by children must be equipped and situated in such a manner as to encourage activity and assure the safety of children and must:

- (A) Have 50 square feet of area per child;
- (B) Be equipped with age and developmentally appropriate play equipment; and
- (C) Have no standing or stagnant water or sewage present.

006.10 EDUCATIONAL SERVICES. If the licensee maintains a school at the residential child-caring agency, the buildings and equipment must meet the requirements of the Nebraska Department of Education for an approved or accredited school.

006.11 FIRE SAFETY. The licensee must maintain fire safety approval at all times.

006.12 SANITATION AND ENVIRONMENTAL SAFETY. The licensee must maintain sanitation and environmental requirements at all times.