Agency Name: Department of Social Services

Statutory Authority: 63-11-30

Document Number: 5231

Proposed in State Register Volume and Issue: 47/9

House Committee: Regulations and Administrative Procedures Committee

Senate Committee: Family and Veterans' Services Committee

120 Day Review Expiration Date for Automatic Approval: 05/08/2024

Status: Pending

Subject: Residential Group Care Facilities for Children

History: 5231

By Date Action Description Jt. Res. No. Expiration Date

- 09/22/2023 Proposed Reg Published in SR

- 01/09/2024 Received President of the Senate & Speaker 05/08/2024

H 01/09/2024 Referred to Committee

S 01/09/2024 Referred to Committee

S 02/14/2024 Resolution Introduced to Approve 1054

Document No. 5231

**DEPARTMENT OF SOCIAL SERVICES**

CHAPTER 114

Statutory Authority: 1976 Code Section 63‑11‑30

114‑591. Organization and Administration.

114‑594. Additional Requirements for Specified Group Home Populations.

**Synopsis:**

The South Carolina Department of Social Services is amending Regulations 114‑591 regarding criminal and child protective services background checks and 114‑594 regarding additional requirements for specified group home populations.

The Notice of Drafting was published in the *State Register* on June 23, 2023.

**Instructions:**

Print the regulations as set forth below. All other items remain unchanged.

~~Indicates Matter Stricken~~

Indicates New Matter

**Text:**

114‑591. Organization and Administration.

 A. Purpose and Need.

 (1) At the time of application for licensing of a new facility, a facility shall submit:

 (a) A detailed description of the why there is a need for this particular facility and any facts that support the applicant’s assertion for that need.

 (b) Letters of support documenting a need for their services from at least three community partners, including referral sources (e.g. Department of Social Services, Department of Juvenile Justice, Department of Disabilities and Special Needs, etc.).

 (c) A concise written statement addressing the following:

 (i) Definitive statement of purpose and objectives with respect to type of residential child care to be provided;

 (ii) Description of services offered;

 (iii) Ages and genders of children accepted;

 (iv) Types of children accepted (e.g., abused/neglected, emotionally disturbed, dependent/neglected, status offenders, etc.);

 (v) The geographical areas from which children are accepted.

 (2) The facility shall reevaluate its functions periodically and redefine them as community needs change. A copy of the revised statement shall be submitted to the Agency when changes occur.

 B. Board of Directors.

 (1) A for‑profit group care facility may elect to have a board of directors. If applicable, a list of names of board members shall be submitted annually or whenever there is a change, outlining the chain of command and the appropriate contact person(s), including names, addresses, electronic mail addresses, related phone numbers and positions held on the board. In the absence of a board of directors, the group care facility shall submit names, addresses, electronic mail addresses, related phone number and positions held for executive management or any person or each person of an entity that oversees the group home director.

 (2) A not‑for‑profit group care facility shall be chartered by the Secretary of State and shall have a board which functions in accordance with the organization’s constitution and bylaws. A list of names of board members shall be submitted annually or whenever there is a change, outlining the chain of command and the appropriate contact person(s) including names, addresses, electronic mail addresses, related phone numbers and position held on the board. Facilities operated by a state agency are exempt from this requirement.

 (3) The bylaws of a board of a not‑for‑profit group care facility shall provide for the following:

 (a) At least one annual meeting held at the group care facility;

 (b) A limitation on the number of consecutive terms a member may serve;

 (c) An orientation for new board members; and

 (d) A provision that prohibits board members from receiving financial compensation for their services.

 (4) Responsibilities of a board of a not‑for‑profit group care facility shall include:

 (a) Selecting the director to whom administrative responsibility is to be delegated;

 (b) Assuring that adequate funds are available;

 (c) Formulating or approving policies and procedures;

 (d) Accounting for the expenditure of funds and providing financial oversight;

 (e) Evaluating on an annual basis the performance of the director;

 (f) Ensuring that the Agency is informed of changes in administration;

 (g) Ensuring adherence to legal standard and ethical norms; and

 (h) The board shall assist in developing the annual budget and ensure the inclusion of sound financial controls.

 C. Finances.

 (1) The group care facility shall utilize funds in a manner that is safe, child‑centered, responsible, and free from fraud. Policies and practices shall be in accord with sound budgeting, disbursement, and audit control procedures.

 (2) The group care facility shall maintain a system of business management and staffing to ensure complete and accurate accounts, books, and records are maintained.

 (3) A new group care facility shall have a predictable source of funds to finance its first year of operation and reserve funds equal to the operating costs of the first six months. However, existing licensed group care facilities that are in good standing with the Agency and increasing the capacity by no more than twenty‑five (25) percent are exempt from the requirements to submit evidence of reserve funds or available credit.

 (4) The group care facility shall prepare a budget each year for its group care facility showing anticipated income (broken down by category, e.g.: private donations, government grants, community fundraisers, etc.) and expenditures. The budget shall include projected costs for administration, insurance, vehicles, equipment, programming, personnel expenses, shelter (mortgage, rent, maintenance, etc.), property taxes, food, utilities, clothing, and other household expenses. A copy shall be submitted to the Agency.

 (5) All board administered accounts shall be reviewed at least annually by a certified public accountant who does not serve on the board nor is otherwise employed by the group care facility. The report shall be made a part of the group care facility’s record and a copy of the balance sheet submitted to the Agency at the time of relicensing.

 (6) In the event financial stability is questionable, the Agency may require a financial audit to be conducted by a certified public accountant. The group care facility is responsible for the cost of a financial audit.

 D. Policies and Procedures.

 (1) The facility shall develop and implement (and update as appropriate) a policy and procedural manual that includes all of the following:

 (a) Services to Children‑ activity planning, admission of a child, allowances, behavior intervention, community involvement for children, complaints and grievances, confidentiality of child records, critical incident reporting, disaster plan, discharge of a child, electronic use, including cell phones, tablets, etc., emergency care in the event of a placement disruption, emergency safety intervention (if applicable), exploitation, family involvement and visitation, first aid and cardiopulmonary resuscitation (CPR) training, hospitalization, facility rules, procedures related to a child’s absence from the group home without permission, independent living services (if applicable), LGBTQ+ youth, management of children’s money, medical care of children (including dental care), medication administration, storage and disposal, out of state placements (if applicable), prohibition of smoking, prohibition of the use of child labor as a substitute for employment, reasonable and prudent parenting, religion, routine and emergency medical care, social media, suicide prevention, supervision of children on‑site and off‑site, the use of universal precautions, time‑out, gang affiliation, drug paraphernalia, and weapons.

 (b) Administration‑ designation of the chain of command or supervisory structure in the group care facility, finance, job descriptions and social media.

 (c) Personnel‑ a workable plan for contacting the facility or a staff member when necessary, confidentiality of child records, disciplinary actions, documenting staff arrival and departure times, grievances, orientation for new staff, boundaries for staff, procedures for revisions of personnel policies, prohibition of smoking on the facility premises and in vehicles used to transport children, role of staff as mandated reporters, routine or universal health precautions and infection control, social media, training and staff development, volunteers and work schedule requirements.

 (2) The staff of the facility shall be familiar with policy and procedural manuals and a copy of the manuals shall be made available to staff and the licensing agency.

 E. Communications and Notifications.

 (1) The facility shall be able to communicate with the child, the Agency, health care providers, and other service providers.

 (2) A telephone that is operational shall be available on the premises at all times.

 (3) The facility shall provide an electronic mail address to the Agency and be able to access the internet.

 (4) The facility is subject to South Carolina laws relating to child abuse and neglect. The facility shall immediately report incidents of suspected abuse or neglect to the South Carolina Department of Social Services.

 (5) The facility shall notify the Agency licensing unit in writing within 24 hours regarding occurrences involving children in care, including but not limited to:

 (a) Any federal, state or private legal action by or against the facility which affects any child, the conduct of the facility or any person affiliated with the facility;

 (b) Closure of a living unit due to disaster or emergency situations such as fires or severe weather;

 (c) A decision to evacuate the facility (if possible) and the names and location of all children who have evacuated in the case of an emergency.

 (6) The facility shall notify the Agency licensing unit in writing at least 30 calendar days before:

 (a) Discontinuing operation of a facility;

 (b) Any change in executive leadership responsible for the facility;

 (c) Any planned construction or major structural changes to the facility;

 (d) Any impending change that would necessitate a change in the conditions of the license, i.e., capacity, age range, gender, location or name.

 F. Staff and Volunteer Responsibilities.

 (1) A staff member, or volunteer who knows or has reasonable cause to suspect that a child has been abused or neglect as defined in S.C. Code Section 63‑7‑20 shall immediately inform by phone, in writing, or in person, the Agency or a local law enforcement agency.

 (2) Staff members and volunteers shall keep information and records on children confidential pursuant to the requirements in S.C. Code Section 63‑7‑940 and S.C. Code Section 1990.

 (3) Each staff member or volunteer shall notify the group care facility as soon as possible, but no later than the staff member’s next working day of all of the following:

 (a) A conviction of any crime.

 (b) A current or past investigation by any governmental agency for any act, offense, or omission, including an investigation related to the abuse or neglect, or threat of abuse or neglect, to a child or other client, or an investigation related to misappropriation of a client’s property.

 (c) A governmental finding substantiated against them of abuse or neglect of a client or of misappropriation of a client’s property.

 (d) A denial, restriction, or other limitation of a license or credential from the Agency of safety and professional services.

 (4) The staff member or volunteer shall demonstrate competency in the group care facility’s program statement, policies and procedures, roles and responsibilities, and resident rights.

 G. Directors.

 (1) Executive Directors shall have qualifications consistent with the responsibilities of the position as determined by the governing board. Documentation of qualifications, i.e., application or resume, shall be on file at the facility and will be reviewed at the time of licensing and relicensing.

 (2) Program Directors are employed full‑time and are responsible for the daily operations of a facility and shall have the following qualifications and responsibilities:

 (a) Be at least 21 years old;

 (b) Have a bachelor’s degree in one of the major fields of study including, social work, sociology, psychology, special education, counseling and guidance, criminal justice and any other area in the human services field as approved by the Agency;

 (c) Have two (2) years of professional supervisory experience in child welfare;

 (d) Oversee program operation and development, and

 (e) Review the appropriateness of admission of each child to the facility, participate in developing, reviewing, and updating child assessments and care plans, provide technical assistance to the group care staff and agencies and periodically review and update facility policies and procedures.

 (f) Qualifications for employment as outlined in this section shall be documented in an application which shall also include the requirements of Regulation 114‑591(I).

 (3) Program Directors employed prior to July 1, 2021 will have a transition period of six years to meet the educational requirements. Alternatively, work experience may be considered in lieu of a bachelor’s degree at the Agency’s discretion for program directors employed prior to July 1, 2021.

 H. Caregivers.

 (1) Caregivers have regular, direct contact with children and, at a minimum, shall be responsible for the care, nurture, monitoring and supervision of children; supporting and promoting parental involvement when appropriate; reporting suspected child abuse and neglect to the Out of Home Abuse and Neglect Unit of the South Carolina Department of Social Services and/or to a law enforcement agency in the county where the child resides or is found; and guidance on independent living services, as appropriate.

 (2) A caregiver shall be at least twenty‑one years old.

 (3) Caregivers shall have a minimum of a high school diploma, certificate or equivalent.

 I. Hiring and Employment.

 (1) Before a group care staff applicant begins employment, the group care facility shall do all of the following:

 (a) Ensure that the applicant meets the qualifications for their position.

 (b) Conduct and document background checks pursuant to regulation 114‑591(L), on each applicant.

 (c) Conduct and document a general orientation to the facility.

 (d) Determine that the caregiver applicant is at least twenty‑one years old and at least one year of child caring experience, either paid or unpaid.

 (e) Obtain and file documentation to confirm that the caregiver applicant has a high school diploma, certificate or equivalent.

 (f) Conduct and document additional training, including CPR, bloodborne pathogen, first aid, and restraint training as needed.

 J. Personnel Records.

 (1) The facility shall establish and maintain on the premises a personnel record for each group care staff member and volunteer staff.

 (2) Each personnel record shall contain all of the following for the staff member for which the record was created:

 (a) A completed application for employment that shall include the staff member’s name, address, date of birth, training, education, work experience, and date of hire and proof that educational requirements have been met, if applicable;

 (b) Current address and all addresses within the five years prior to hire;

 (c) A completed and current background information disclosure form;

 (d) The results of all background checks required in 114‑591 (L);

 (e) A job description that is signed and dated by the staff member or volunteer;

 (f) A completed physical examination for caregivers or volunteer staff;

 (g) The staff member or volunteer staff’s driver’s record, if the staff member or volunteer is assigned to transport children;

 (h) A training record that shall include documentation of the staff member or volunteer’s receipt of the orientation, training, and continuing education and the training record shall be documented as specified in 114‑591 (M) (4);

 (i) Documentation of all first aid and CPR certifications, if applicable;

 (j) Documentation of restraint training certification, if applicable;

 (k) For RPPS decision makers, documentation of the training required;

 (l) Any disciplinary actions issued to the group care staff person or volunteer.

 K. Staff Medical Exams.

 (1) Each caregiver and volunteer staff person shall be physically, mentally and emotionally able to provide responsible care for children and shall not pose an imminent threat of harm to children or to the quality and manner of their care.

 (2) All caregivers and volunteer staff shall provide a medical statement on the medical history form approved by the Agency at the time of their hiring. This form should be kept in the caregiver’s employee file for the duration of their employment.

 (3) Caregivers and volunteer staff persons included in staff‑to‑child ratios shall have a medical examination conducted by a physician, physician assistant, or nurse practitioner no more than three months prior to employment or no later than thirty days after employment to certify that the caregiver meets the minimum physical requirements of the position and that the caregiver is in general good health that will not adversely affect the care of children in placement. The facility shall utilize the official Agency medical examination report form, which can be obtained from the Agency website.

 (4) If the Agency has reason to believe that the physical or mental health of a caregiver or volunteer staff person or an applicant for employment may endanger a resident, the Agency may require that a written statement be submitted by a physician or, if appropriate, by a licensed mental health professional, that certifies the condition of the individual and the possible effect of that condition on the facility or the children in care.

 (5) No more than three months prior to employment or no later than 30 days after employment, provide certification from a physician, physician assistant, or nurse practitioner that the caregiver meets the minimum physical requirements of the position and that the caregiver is in general good health. Physical examinations report forms can be obtained from the Agency website.

 L. ~~Criminal Activity.~~Background Checks.

 (1) No child may be placed in a group care facility with a person working in the facility, including a caregiver, staff, and volunteer staff who:

 (a) Has a substantiated history of child abuse or neglect; or

 (b) Has pled guilty or nolo contendere to or has been convicted of:

 (i) An ‘Offense against the Person’ as provided for in Chapter 3, Title 16;

 (ii) An ‘Offense against Morality or Decency’ as provided for in Chapter 15, Title 16;

 (iii) Contributing to the delinquency of a minor as provided for in Section 16‑17‑490;

 (iv) The common law offense of assault and battery of a high and aggravated nature when the victim was a person seventeen years of age or younger;

 (v) Criminal domestic violence as defined in Section 16‑25‑20;

 (vi) Criminal domestic violence of a high and aggravated nature as defined in Section 16‑25‑65;

 (vii) A felony drug‑related offense under the laws of this State;

 (viii) Unlawful conduct toward a child as provided for in Section 63‑5‑70;

 (ix) Cruelty to children as provided for in Section 63‑5‑80;

 (x) Child endangerment as provided for in Section 56‑5‑2947; or

 (xi) Criminal sexual conduct with a minor in the first degree as provided for in Section 16‑3‑655(A).

 (c) A person who has been convicted of a criminal offense similar in nature to a crime enumerated in L(1)(b), when the crime was committed in another jurisdiction or under federal law, is subject to the restrictions set out in this section.

 (d) This section does not exclude any person in L(1) when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in L(1)(b) has been pardoned. However, notwithstanding the entry of a pardon, the Agency or other entity making placement or licensing decisions may consider all information available, including the person’s pardoned convictions or pleas and the circumstances surrounding them, to determine whether the person is unfit or otherwise unsuited to work or volunteer in a group care facility.

 (2) Prior to working in a facility, all persons referenced in L(1) shall undergo a background check, ~~to be conducted by the State Law Enforcement Division,~~ including a fingerprint review to be conducted by the Federal Bureau of Investigation, a check of the State Central Registry of Child Abuse and Neglect and department records, the equivalent registry system check for each state in which the person currently resides and has resided in the previous five years, the National Sex Offender Registry, and the state sex offender registry.

 (3) The background checks of all persons referenced in (L)(1) shall be submitted to the Agency upon request.

 (4) If a person referenced in (L)(1) separates from the facility for any period of time, then all background checks shall be repeated prior to resuming work in the facility.

 (5) A fingerprint review conducted by the Federal Bureau of Investigation shall be required for all persons referenced in (L)(1). The fingerprint review shall be required prior to working in the facility and every five years thereafter to ensure the person continues to meet the requirements of this section.

 (6) A background check conducted by the State Law Enforcement Division, a check of the State Central Registry of Child Abuse and Neglect and department records, the equivalent registry system check for each state in which the person currently resides and has resided ~~in~~ within the previous five years, the National Sex Offender Registry, and the state sex offender registry shall be completed annually ~~prior to re‑licensure~~ for all persons referenced in (L)(1) to ensure the person continues to meet the requirements of this section.

 (7) The chief executive officer or the person authorized to hire staff shall agree to comply with the conditions of the ~~Memorandum of Agreement~~ Memorandum of Understanding on Criminal Record Checks.

 (8) When a group care staff person or volunteer staff person is under investigation by the Agency, then the Agency may restrict that staff person’s access to children until the investigation is complete if the seriousness of the allegations warrant such action.

 (9) Although background checks prescribed in this subsection are not required for children age 18‑21 who reside in the facility, if the facility also engages in the full‑time residential care of minor children and is not a facility that exists primarily for the detention or correction of children, the facility shall have policies and procedures to assess the criminal background and child protective services history of children age 18‑21 to ensure the safety of minor children residing in the facility.

 (10) Notwithstanding the requirements to conduct criminal background and child abuse and neglect registry checks as outlined in this section, a facility may onboard persons referenced in (L)(1)) for administrative purposes, i.e., training, completion of forms, signing documents, pending receipt of criminal background and out‑of‑state child abuse and neglect registry information. In such cases, prior to being onboarded, the person must provide a sworn, written statement that he or she has not pled guilty or nolo contendere, nor been convicted of any crime set forth in this section and that the person does not have a substantiated history of child abuse or neglect and is not on any State’s child abuse and neglect registry. The facility shall not allow a person who is awaiting the results of background checks to have any unsupervised contact with children until the background checks are complete and it has been determined the person has no records that would exclude him or her from working or serving in the facility. Facility staff fulfilling a supervisory role must meet all staff requirements found in these regulations and must provide line‑of‑sight supervision to any person who is awaiting results of background checks. The facility must make diligent efforts to complete background checks within thirty days of onboarding a person for administrative purposes. However, upon a showing of good cause, the State Director or State Director’s designee may provide written authorization for an extension not to exceed sixty days. In no event may the period of onboarding for administrative purposes as described in this section exceed ninety days.

 M. Staff Orientation and Continuing Education.

 (1) The director shall submit an annual training plan to the licensing agency prior to implementation to ascertain that the plan will comply with this requirement. Training topics shall include trauma concepts and behavioral management, to provide for the needs of the children who are or may be placed in the group care facility, early learning, child and adolescent brain development, healthy eating, protective factors, and child abuse and neglect prevention. The annual training plan shall include proposed training topics, the planned month and number of training hours expected for each topic.

 (2) Documentation of completed training shall be on file at the facility and shall be reviewed at the time of licensing, monitoring, or relicensing visits.

 (3) The training record shall include documentation of the staff member’s receipt of the orientation, training, and continuing education. Documentation shall include a summary training log for each caregiver for each license year followed by supporting documentation (e.g. certificates, training sign‑in sheets if legible, etc.). The staff training log shall include all of the following:

 (a) Date and time of orientation and each training session;

 (b) Name of each person that conducted each orientation and training;

 (c) Training topic;

 (d) Total hours of training or continuing education received;

 (e) Whether the staff member completed the requirements of the training or continuing education session.

 (4) Each volunteer staff person included in staff‑to‑child ratios shall meet the training requirements specified for caregivers.

 (5) Within the first week of hire and prior to working alone with children, the group care facility shall provide the group care staff member with all of the following:

 (a) A job description and the job description shall be signed and dated by each staff member upon receipt by the staff member;

 (b) The facility’s program statement and policies and procedures, including the personnel policies and procedures;

 (c) Requirements of child abuse and neglect reporting and information on how to identify and report abuse or neglect situations;

 (d) Instruction on how to use fire extinguishers, and on emergency and evacuation procedures;

 (e) Any other information that would orient the staff member to the facility.

 (6) Each license year caregivers shall complete a minimum of fifteen (15) hours of training related to the population served by the group care facility (not including first aid and cardiopulmonary resuscitation). A maximum of four training hours can be carried over from the previous license year as long as the training hours did not count towards the previous license year’s fifteen hour requirement. The Agency encourages the facility to offer training regularly throughout the license year.

 (7) Types of training that may be acceptable to the Agency to meet continuing education requirements include all of the following:

 (a) Formal courses resulting in credits or continuing education units;

 (b) Training provided by the facility, a staff member, or a volunteer;

 (c) Workshops, conferences, seminars, or lectures;

 (d) Online training.

 (8) Training topics include, but are not limited to: skill training in specific methods employed by the program, crisis management protocol, significance and value of birth and extended family, the importance of maintaining meaningful connections between the child and parents, including regular visitation, identifying and reporting child abuse and neglect, role of staff as mandated reporters, basic communication, interviewing skills, information related to the transmission and prevention of infection or universal precautions, group dynamics, fire life safety, water safety (for staff who will provide supervision for children around bodies of water), history and development of the service being provided (from the facility) and its current status, grief and loss issues for children in care, specific organizational policies and procedures, supervision and teaching skills, working with children who may have emotional, behavioral, physical problems or developmental delays, treatment care specific to the needs of the population served, individualized education and development plans, developmental needs of children, behavior management, de‑escalation techniques, suicide prevention, cultural competency and culturally responsive services, LGBTQ+ issues, gang activity, drug and alcohol education, sex education, medication administration, trauma‑informed care, prudent parenting, psychotropic medications, medical consent, child‑specific training and/or may address issues relevant to the general population of children and other education and/or training required by the state.

 (9) The fifteen hour training requirement will be pro‑rated for new caregivers based on the number of months worked during the license year.

|  |  |
| --- | --- |
| Months Worked During License Year | Hours Required |
| 1 | 1 |
| 2 | 2 |
| 3 | 3 |
| 4 | 5 |
| 5 | 6 |
| 6 | 7 |
| 7 | 8 |
| 8 | 9 |
| 9 | 10 |
| 10 | 12 |
| 11 | 13 |
| 12 | 15 |

 (10) At all times at least one caregiver in each living space shall be certified in first aid and cardiopulmonary resuscitation appropriate to the age of the population served. The training shall be from the American Red Cross or a program or trainer certified by the American Red Cross, American Heart Association, or the Health and Safety Institute. The certification shall be renewed in accordance with training guidelines.

 (11) If it is a facility’s policy to implement physical restraints, then all caregivers shall complete restraint training. New staff cannot participate in a restraint prior to completing the facility’s restraint training.

 N. Volunteers.

 (1) If volunteers are used as part of a group care facility’s program of services, the group care facility shall have written policies to screen, select and supervise volunteers.

 (2) Those volunteers who have opportunity for unsupervised contact with children shall be known as “volunteer staff” and shall supply a written application and have an interview with the staff who is responsible for the supervision of volunteers before volunteering.

 (a) Volunteer staff may be used to meet the staff‑to‑child ratio requirements if the volunteer meets the requirements specified for caregivers under regulation 114‑591 (H), (I), (L), (M) and (K).

 (3) Volunteers shall be invited to participate in annual training required of other caregivers.

 (4) Individuals or groups who offer to provide a one time or occasional voluntary service (parties, trainings, entertainment, etc.) and do not have unsupervised access to children, are not required to undergo a full background screening by the group care facility. At least one facility caregiver shall supervise the interaction between such individuals or groups and the children.

 O. Record Storage and Retention.

 (1) The facility shall retain in a locked or secured area all children’s records for a minimum period of three years from the date the child is discharged from the program, and all staff records for a minimum period of three years from the date the staff separates employment.

 (a) If any litigation, claim, or other action involving the records have been initiated prior to the expiration of the three year period, the records shall be retained until completion of the action and resolution of all issues that arise from it or until the end of the three year period, whichever is later.

 (b) A facility that no longer operates shall secure the records until the requirements above are met.

 (2) In accordance with the South Carolina Electronic Transactions Act (S.C. Code Ann. 26‑6‑10 et seq.), electronic records will be accepted assuming that the information is in a reasonably accessible format.

The Provider shall ensure that the electronic record is accessible to reviewers and auditors and the integrity of the record is preserved.

 P. Supervision and Staff‑to‑Child Ratios.

 (1) Caregivers shall be responsible for the daily supervision of children and direct care to children to ensure their safety and well‑being. A facility shall staff each group care facility with caregivers in numbers sufficient to meet the staff to child ratios specified in regulation 114‑591 (P)(3) and for any off‑premise activities.

 (a) A facility shall ensure that supervision is provided for each child appropriate to the child’s age, maturity, behavior, and developmental level and sufficient to ensure the safety of all children in the facility.

 (b) No child may be in the facility without supervision by a caregiver.

 (c) A facility shall ensure that sufficient staffing is available to provide supervision of a child during suspensions and other extended absences from school.

 (2) A minimum of two caregivers shall be available, accessible, and able to respond on‑site within a reasonable amount of time during waking and sleeping hours.

 (3) The staff‑to‑child ratios of the facility shall be 1:5 for children from birth to one year old. A facility shall have at least one caregiver awake and providing supervision for every 5 children in this age group during waking hours and during sleeping hours.

 (4) The staff‑to child ratios of the facility shall be 1:6 for children one to two years old. A facility shall have at least one caregiver awake and providing supervision for every 6 children in this age group during waking and sleeping hours.

 (5) The staff‑to‑child ratios of the facility shall be 1:8 during waking hours and 1:10 during sleeping hours for children three years old and older.

 (6) Any child of live‑in staff shall be included in the staff‑to child ratios.

 (7) The staff‑to‑child ratios in regulation 114‑591(P) are the minimum staffing requirements for caregivers. The number of caregiver staff on duty shall be increased as necessary to meet the needs of children and to ensure their safety and welfare.

 (8) The Agency may require a higher staff‑to‑child ratio if an on‑site review indicates that a child is at risk of abuse, and more supervision is needed to maintain appropriate control, discipline, adequate care and safety.

 (9) The facility shall have a responsive system to provide for on‑call caregivers (available, accessible and able to respond on‑site) in the event of an emergency or disruption. A schedule of on‑call caregivers shall be made immediately available to the Agency upon request.

 Q. Time Off for Caregivers.

 Each full‑time caregiver shall have at least two consecutive days off each month in addition to one day off each week or the equivalent. The facility shall comply with state labor laws.

 R. Effective Date.

 This Regulation shall become effective on September 12, 2021.

114‑594. Additional Requirements for Specified Group Home Populations.

 A. Care for LGBTQ+ Youth.

APPLICABILITY. If a facility admits LGBTQ+ children, the additional requirements outlined in this section must be met.

 (1) The facility shall not automatically isolate or segregate LGBTQ+ youth. The facility shall not assign transgender youth to the boys or girls unit strictly according to their anatomical sex. The facility shall accept the gender identity of the youth in question.

 (2) The facility shall work with individual LGBTQ+ youth to identify the most appropriate housing assignment in a facility, given the youth’s specific preferences, needs, and characteristics.

 (3) The facility shall make assignments to a unit, room, or roommate according to the youth’s preferences, personality, background, age, developmental status, health status, sophistication, social skills, behavioral history, and other factors that might influence his or her adjustment and contribute to a safe and successful experience.

 (4) The facility shall never place an LGBTQ+ youth in a room with another youth who is overtly hostile toward or demeaning of LGBTQ+ individuals.

 (5) To avoid subjecting a transgender youth to unnecessary risk of harm, the facility shall work with the youth to determine the best solution for using bathroom and shower facilities. Appropriate solutions might include:

 (a) Installing privacy doors or other barriers on bathroom stalls and showers that also permit reasonable staff supervision;

 (b) Making single‑use bathroom and shower facilities available to transgender youth;

 (c) Permitting transgender youth to use the bathroom and shower facilities before or after the other youth on the unit.

 (6) Facilities shall make similar accommodations to ensure that transgender youth have sufficient privacy when dressing and undressing.

 B. Requirements for Child Care Institutions Providing Care for Prenatal, Post‑Partum, or Parenting Youth.

APPLICABILITY. A child care institution that is solely licensed to provide care for custodial parents and expectant mothers must meet these additional requirements.

 (1) A Child Care Institution that is licensed to provide care to custodial parents or expectant mothers, shall meet the additional requirements of this section.

 (2) The care plan developed shall include goals and approaches for all of the following:

 (a) Parenting skills instruction that includes all of the following:

 (i) Prenatal and other health care services;

 (ii) Child development;

 (iii) Bathing and hygiene;

 (iv) Child safety;

 (v) Child guidance and behavior management;

 (vi) Domestic violence issues, sudden infant death syndrome, shaken baby syndrome, and mental health and alcohol and other drug abuse counseling as appropriate;

 (vii) Nutrition and meal preparation;

 (viii) Childcare options.

 (b) Life skills instruction that includes all of the following:

 (i) Family planning and relationships;

 (ii) Independent living skills, economic self‑sufficiency, budgeting and job skills;

 (iii) Parental rights and responsibilities, including child support;

 (iv) Choosing and monitoring child care providers;

 (v) Accessing community resources, transportation, and transitional housing.

 (3) An expectant mother shall be provided prenatal and postnatal care from a physician or a nurse‑midwife. The facility shall ensure that the expectant mother gives birth in a medical facility.

 (4) The facility shall ensure the health, safety, and welfare of the children of custodial parents and provide care to those children in compliance with these regulations.

 (5) If the child is not on the premises or is otherwise unable to care for his or her child, childcare may be provided on the premises only as follows:

 (a) The staff member or volunteer staff used to meet staff to child ratios shall have completed the training requirements for a caregiver;

 (b) Childcare may be provided off premises only by a child care provider that is licensed or registered by the Agency.

 (6) The facility shall give children of custodial parents the opportunity and encouragement to maintain involvement with non‑custodial parents.

 C. Requirements for Child Care Institutions Caring for Children Six Years of Age or Younger.

APPLICABILITY. Any ~~A~~ child care institution that admits children under six years of age ~~as children~~ or if the child care institution provides care to a child who is the custodial parent of a child under the age of six~~, the facility~~ shall meet the additional requirements of this section.

 (1) Infant and Toddler Care.

 (a) Stimulation and nurturing

 (i) Children shall not remain in their cribs or play equipment for other than sleeping and specific, short time‑limited quiet play.

 (ii) Infants and toddlers shall be routinely held, talked to, rocked, caressed, carried, nurtured, read to, sung to and played with throughout the day.

 (iii) There shall be toys and materials that encourage and stimulate children through seeing, feeling, hearing, smelling and tasting.

 (iv) Feeding chairs shall be used only for eating or a specific, short time‑limited tabletop play activity.

 (b) Programs for infants and toddlers

 (i) Staff shall provide appropriate attention to the needs of children.

 (ii) The daily program for infants and toddlers shall include goals for children, which promote healthy child development and allow for individual choice and exploration.

 (iii) Information about the child’s daily needs and activities shall be shared with parents.

 (2) Infant and Toddler Sleep.

 (a) Children over one year of age shall not share a bedroom with an adult unless:

 (i) The infant has a physician documented illness; or

 (ii) The infant’s parent is a child of the facility, the parent is requesting this arrangement, there is adequate space for both, and Agency approval is obtained.

 (b) Cribs shall meet the requirements of the US Consumer Products Safety Commission (CPSC) and have a firm crib mattress and tight‑fitting crib sheet.

 (c) Each infant, toddler, two year old and preschool child shall be assigned an individual, clean, and developmentally appropriate crib, toddler bed, or bed used only by that child.

 (d) Infants shall be placed on their backs to sleep.

 (e) Infants shall always be placed in cribs alone, with no blankets, bumpers, pillows or toys.

 (f) Infants shall never sleep on sofas, chairs, recliners, waterbeds, pillows, cushions or blankets.

 (3) Infant and Toddler Feeding.

 (a) Bottles shall not be propped. A child unable to hold a bottle shall be held whenever a bottle is given.

 (b) Infants and toddlers shall not be put to bed with a bottle.

 (c) Microwaving of breastmilk, formulas, or other beverages is prohibited. If used, crock pots, bottle warmers, or other electronic devices shall be in an area not accessible to children.

 (d) All warmed bottles shall be shaken well and the temperature tested before feeding to a child.

 (e) Any excess formula, juice, or food shall be discarded after each feeding. Formula, juice and food requiring refrigeration shall be maintained at 45 degrees Fahrenheit or below.

 (f) Toddlers shall be offered water routinely throughout the day.

 (g) If more than one infant is served, then breast milk and formula shall be dated and labeled with the child’s name and refrigerated until ready to use.

 (h) Round, firm foods shall not be offered to children younger than four years old. Examples of such foods include: hot dogs, grapes, hard candy, nuts, peanuts, and popcorn. Hot dogs may be served if cut lengthwise and quartered; grapes may be served if cut in halves.

 (4) Infant and Toddler Sanitation.

 (a) Staff shall ensure that children’s faces and hands are clean.

 (b) Furniture, toys, and equipment that are used by more than one unrelated child and come into contact with children’s mouths shall be washed, rinsed, and sanitized daily and more often if necessary.

 (c) Furniture, toys and equipment soiled by secretion or excretion shall be sanitized before reuse.

 (d) Linens and blankets as well as cribs, cots, and mats shall be cleaned at least weekly.

 (e) Each child shall have a separate toothbrush.

 (5) Diapering and Toilet Training.

 (a) Facilities caring for infants shall provide a diaper changing area.

 (b) Diaper changing procedures shall be consistent with those recommended by the Center for Disease Control and Prevention.

 (c) Diapering surfaces shall be sanitized.

 (d) Diapering surfaces shall be clean, seamless, waterproof and sanitary.

 (e) Diapering surfaces shall be cleaned and sanitized after each use by washing to remove visible soil followed by wiping with an approved sanitizing solution (e.g. 1 tablespoon of chlorine bleach per 1 quart of water) and/or disposable, non‑absorbent paper sheets approved for this purpose and shall be discarded immediately after each diapering.

 (f) Blood contaminated materials and diapers shall be discarded in a plastic bag with a secure tie. Surfaces contaminated with blood or blood‑containing body fluids shall be cleaned with a solution of chlorine bleach and water.

 (g) Diapering shall occur only at a diapering changing area or in a bathroom.

 (h) Diaper changing areas shall not be used for any purpose other than for diapering.

 (i) Individual wipes shall be used at each diaper change and shall be placed in a plastic‑lined, covered container and washed or disposed of properly, and kept out the reach of children.

 (j) Soiled disposable diapers and disposable wipes shall be kept in a closed, plastic lined receptacle within reach of diaper changing area separate from other trash. Soiled non‑disposable items shall be kept in a sealed plastic bag after feces is disposed of through the sewage.

 (k) Disposable non‑absorbent paper sheets shall be disposed of immediately after diapering is completed.

 (l) Soiled disposable diapers shall be disposed outside the building daily. Soiled non‑disposable diapers shall be kept in a sealed plastic bag and washed regularly.

 (m) Staff shall ensure that diapers and clothing are checked at a frequency that ensures prompt changing of diapers and clothing.

 (n) No child shall be left unattended while being diapered.

 (o) If seat adapters are used for toilet training, they shall be cleaned and sanitized after each use.

 (p) Toilet training equipment shall be provided to children who are being toilet trained.

 (q) Toilets, toilet seat adapters, sinks and restrooms shall be cleaned at least daily and shall be in good repair.

 (6) Furniture, toys and recreational equipment shall:

 (a) Be clean and free from hazards such as broken or loose parts, rust or peeling paint, pinch or crush points, unstable bases, sharp edges, exposed bolts, and openings that could cause head or limb entrapment;

 (b) Meet the standards of the US Consumer Products Safety Commission (CPSC), if applicable. Recalled products listed by the CPSC shall not be accessible to children;

 (c) Be developmentally and size appropriate, accommodating the maximum number of children involved in an activity at any one time;

 (d) All arts and crafts and play materials shall be nontoxic;

 (e) The height of play equipment shall be developmentally and size appropriate;

 (f) Sand in a sand box shall be securely covered when not in use and, if outdoors, constructed to provide for drainage;

 (g) Indoor recreational equipment and furnishings shall be cleaned and disinfected when they are soiled or at least once weekly and shall be of safe construction and free of sharp edges and loose or rusty points;

 (h) Mobile walkers are not permitted;

 (i) The facility shall provide eating utensils and cups, infant seats, high chairs, car seats, strollers, rocking chairs, tables and seating and other furnishings and equipment appropriate for size and developmental level and the needs of children under 6 years of age.

 (7) Infant and Toddler Indoor Space and Conditions.

 (a) Indoor space shall be protected from general walkways where crawling children may be on the floor.

 (b) Protective gates shall be of the type that do not block emergency entrances and exits and that prevent finger pinching and head or limb entrapment.

 (c) Children shall not have access to a door that swings open to a descending stairwell or outside steps, unless there is a landing that is at least as wide as the doorway at the top of the stairs.

 (d) Interior stairs that are not enclosed shall have a barrier to prevent falls.

 (e) Electrical outlets shall be securely covered with childproof covers or safety plugs when not in use in all areas accessible to children.

 (f) No electrical device accessible to children shall be located so that it could be plugged into the outlet while in contact with a water source, such as sinks, tubs, shower areas, or swimming/wading pools, unless ground fault devices are utilized.

 (g) Infants and toddlers shall not be left unattended in a bathtub or shower.

 (h) The following items shall be secured or inaccessible to children for whom they are not age appropriate:

 (i) Items that may cause strangulation such as blind cords, plastic bags, necklaces, and drawstrings on clothing and string;

 (ii) Items that may cause suffocation such as sand, beanbag chairs, pillows, soft bedding, and stuffed animals; and

 (iii) Items that may cause choking such as materials smaller than 1 1/4 inch in diameter, items with removable parts smaller than 1 1/4 inch in diameter, Styrofoam objects and latex balloons.

 D. Requirements for a Qualified Residential Treatment Program ~~that Serves Children with Serious Emotional or Behavioral Disorders or Disturbances~~.

APPLICABILITY: A child care institution licensed as a Qualified Residential Treatment Program must meet these additional requirements.

 (1) A Qualified Residential Treatment Program (QRTP) must be a child care institution that:

 (a) Has a trauma‑informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and are able to implement the treatment identified for the child in the required 30 day assessment of the appropriateness of the QRTP placement.

 (b) To the extent appropriate, and in accordance with the child’s best interest, facilitates participation of family members in the child’s treatment program.

 (c) Facilitates outreach to the family members of the child, including siblings, documents information for any known biological family and fictive kin of the child.

 (d) Documents how family members are integrated into the treatment process for the child, including post‑discharge planning and family‑based aftercare support for at least six months post‑discharge.

 (e) Is licensed by the state in accordance with title IV‑E requirements and is accredited by any of the following independent, not‑for‑profit organizations: The Commission on Accreditation of Rehabilitation Facilities (CARF), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Council on Accreditation (COA), the Teaching Family Association (TFA), the Educational Assessment Guidelines Leading Toward Excellence (EAGLE), or any other independent, not‑for‑profit accrediting organization approved by the Agency.

 (f) Has registered or licensed nursing staff and other licensed clinical staff who provide care within the scope of their practice as defined by state law, are on‑site according to the treatment model, and are available 24 hours a day and 7 days a week.

 (i) This requirement shall not be construed as requiring a QRTP to acquire nursing and behavioral staff solely through means of a direct employer to employee relationship.

 (2) A QRTP shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

 E. Requirements for Child Care Institutions Serving At‑Risk and Confirmed Victims of Child Sex Trafficking.

APPLICABILITY: A child care institution licensed to provide high‑quality residential care and supportive services to children who are identified as at‑risk, or are confirmed sex trafficking victims must meet these additional requirements.

 (1) The facility shall accommodate victims of child sex trafficking safely in a separate section or wing from youth who are not victims of child sex trafficking.

 (a) Youth at risk of being victims of trafficking must be placed in a separate section to avoid the possibility of recruitment.

 (b) There shall be no more than twelve individuals in a separate wing or unit.

 (c) There shall be no more than two females (or males) sharing the same room.

 (d) Youth of similar ages must be housed together.

 (2) The facility must offer blended educational opportunities for students. This could take place in a traditional school setting or through monitored online education. Instruction make take place with:

 (a) A teacher who is available in person for assistance and offers a traditional classroom.

 (b) Online educational materials, which should be monitored by the teacher and staff.

 (c) In person learning at a traditional school facility. This should occur only if the child is not at risk of elopement or recruitment.

 (3) The facility must have a policy that clearly states that a youth will not be discriminated against based on their religious preferences. Services must not be contingent upon their engagement in religious activities. Mandated religious activities are prohibited.

 (a) Religious and spiritual issues must be addressed as part of the comprehensive case management process and agencies must follow the youth’s lead in determining appropriate engagement or participation. If federally funded, religious programming must be conducted outside of the funded program.

 (4) Staff must have the necessary background and experience to do the specific work for which they are hired. The program must be clear as to the staff roles that will engage with clients, and in what ways, versus the staff roles that are strictly public awareness and training.

 (a) For all staff, training must include human trafficking facts and information; trauma‑informed practice and victim centered approach; trauma‑informed interviewing and screening, cultural awareness and diversity; boundaries, confidentiality, and privacy; safety planning; and other training deemed appropriate by SCDSS or other certification bodies.

 (b) For staff working directly with youth, staff should receive Human Trafficking Victim Service Provider (VSP) certification.

 (5) Each provider must develop a formal written safety plan that strategically addresses steps to prevent and reduce the risk of harm as well as response procedures. This safety plan will be written by the provider for their child sex trafficking population and details:

 (a) A secured identified safe room with emergency communication equipment capable of calling 911 in the event of an intruder;

 (b) A formal safety plan that addresses:

 (i) Medical emergencies

 (ii) Elopement

 (iii) Evacuation plan for a natural disaster

 (6) Twenty‑four hour supervision shall be provided at all times. This means someone will be on duty and awake during the hours of 10 pm until 7 am, or the staff change over.

 (7) The facility must always maintain staff secured doors either via video monitoring, door alarms or visual sight.

 (8) The facility must maintain audible window and door alarms.

 (9) The facility must maintain audible interior motion sensors for nighttime monitoring.

 (10) The facility must have cameras in all open area rooms capable of recorded video and playback and review. Cameras shall be monitored for the safety of the youth. Written documentation must be maintained to include when the cameras are reviewed, who reviewed them, the time reviewed, and any notable observations.

 (11) The facility must maintain exterior cameras and floodlights to enhance security on the property.

 (12) The facility must have child protection policy outlining gender specific restrictions (e.g., no male staff or visitor/female client one‑on‑one interactions), no staff or visitor use of social media or geo‑tagging devices, and no use of cell phones by visitors of the facility.

 (13) The Facility must monitor all visitors and phone contacts between client and visitor.

 (14) All cell phones and electronic devices will be confiscated upon youth entering the facility and stored in a secure place.

 (15) Memorandum of Understanding (MOU) with local, county and state law enforcement including appropriate responses in the case of an emergency and steps to prevent and reduce harm.

 (16) Length of stay is based on individual youth’s progression that should be reviewed by the treatment team on a quarterly basis. The team should anticipate that a youth may need services for an estimated 12‑24 months to enhance likelihood of comprehensive restorative care.

 (a) A shorter stay can occur, but there should be flexibility to extend if needed.

 (i) At risk youth should have some flexibility in their length of stay.

 (ii) At risk youth should receive psycho education on at risk behaviors that lead to trafficking and discussions on completing a safety plan.

 (b) This time frame will allow for rapport to be established, therapy to be effective and a treatment plan to be implemented.

 (c) The program must maintain a highly structured schedule for its youth.

 (17) A qualified program staff member should review any DSS assessments, and DSS Form 1544, (Child Sex Trafficking Tool), to carefully determine the appropriateness of a referral to ensure that potential Youth are victims of CSEC and a match for the program.

 (18) The facility must clearly outline how the program addresses the needs of the youth, including behavioral health, physical and dental health, education, vocational training, employment, legal services, life skills, and facilitated reconnections with family, as appropriate.

 (19) Clinical mental health services and other counseling must be provided by a licensed professional counselor and there must be clear quality assurance mechanisms to ensure treatment models adhere to evidence‑based model efficacy.

 (a) The facility must have access to mental health services that offer counseling in Spanish or should be able to request a counselor that is bilingual.

 (20) The facility shall use evidence‑based, evidence informed, and best practices treatment models, specific to the population being served, that are clearly delineated in the policy and procedure manual. Examples include:

 (a) Trauma‑focused Cognitive Behavioral Therapy (TF‑CBT)

 (b) Risk Reduction through Family Therapy (RRFT), if family is not the perpetrator.

 (c) Dialectal Behavior Therapy (DBT)

 (21) The facility shall have clinical staff or a representative present at all Multi‑Disciplinary Team (MDT) when a client’s safety, well‑being and permanency is being discussed.

 (22) Discharge requirements should be documented in the policies and procedures manual.

 (a) Discharge planning should be carefully coordinated and begin 90 days prior to anticipated discharge date.

 (b) The process should include the safety of the transitional placement and supplemental supports that may be needed in the next placement setting.

 (c) Facility staff or a representative must participate in an MDT staffing prior to a client being discharged. All parties of the MDT team must agree to the plan.

**Fiscal Impact Statement:**

There will be no increased costs to the State or its political subdivisions.

**Statement of Rationale:**

As the administrator of the State’s foster care system, the Department of Social Services is responsible for establishing and promulgating rules and regulations for the licensure of Residential Group Care Facilities for Children. The above referenced regulations need amendments to enhance consistency in licensing standards among child serving organizations licensed by the department and reduce burdensome requirements.

The proposed amendments promote the application of a consistent set of rules and regulations for the licensure of Residential Group Care Facilities for Children, thereby promoting the safety, permanency, stability, and well‑being of children who are in the State’s foster care system.