

## 3:34-1.14 Records maintained by Commissioner; eligibility

The Commissioner shall maintain such records as he or she shall deem necessary in order to determine which public depositories have complied with the Act. After receipt of each quarterly report, the Commissioner shall post a listing of public depositories eligible to act as a depository for public funds on the Department's website at [[www.state.nj.us/dobi/index.html](http://www.state.nj.us/dobi/index.html)] <http://www.nj.gov/dobi/index.html>.

## 3:34-1.15 Requirements for first time public depositories

(a) Before initially accepting public funds, a depository shall submit a complete application to the Department for approval as a public depository on a form found on the Department's website at [[www.state.nj.us/dobi/index.html](http://www.state.nj.us/dobi/index.html)] <http://www.nj.gov/dobi/index.html>. The information to be provided on the form shall include the depository's identifying information, chartering agency, a certified copy of board resolution(s) authorizing participation in GUDPA and designating the depository's GUDPA custodian, total capital funds, and the name of the approved custodian. Upon receipt of a complete application, the Commissioner shall publish notice of the submission of the application on the Department's website at [[www.njdobi.org](http://www.njdobi.org)] <http://www.nj.gov/dobi/index.html>. After review of the application, the Commissioner shall approve the application within 30 days of the Department's acceptance of all required materials and confirmation of compliance with all requirements set forth in this chapter and shall prescribe the amount of eligible collateral required to be maintained.

(b) Upon the Commissioner approving the application and prescribing the required collateral amount and the collateral being properly pledged with the custodian and proof of that being provided by the custodian to the Department, the approved status of the public depository will be published on the Department's website at [[www.njdobi.org](http://www.njdobi.org)] <http://www.nj.gov/dobi/index.html>. After approval by the Department of the first valuation report filed by the public depository in accordance with N.J.A.C. 3:34-1.4, the public depository will be added to the electronic list of approved public depositories referenced in N.J.A.C. 3:34-1.8.

(c) (No change.)

## CHILDREN AND FAMILIES

### (a)

#### OFFICE OF LICENSING

##### Manual of Requirements for Residential Child Care Facilities

**Proposed Amendments: N.J.A.C. 3A:55-1.1, 1.2, 1.3, 2.1 through 2.6, 3.3, 3.5, 3.6, 3.7, 3.8, 4.1, 4.3, 4.4, 4.5, 5.1 through 5.7, 6.1, 6.2, 6.5, 6.6, 6.7, 6.11, 6.13, 6.14, 6.15, 6.17, 7.1 through 7.5, 7.7, 8.1, 8.4, 9.1, 9.2, 9.3, 9.4, 9.13, 9.20, 10.2 through 10.7, 10.9, 10.10, 10.12, 10.13, 10.16, 10.17, 10.19, and 10.21**

##### Proposed Repeal: N.J.A.C. 3A:55-8.2

Authorized By: Allison Blake, Ph.D., L.S.W., Commissioner, Department of Children and Families.

Authority: N.J.S.A. 9:3A-7.g and 9, 30:1-14 and 15, and 30:4C-4.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2017-191.

Submit written comments by December 15, 2017, to:

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The agency proposal follows:

#### Summary

As the Office of Licensing (Office) has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The Office proposes to remove N.J.A.C. 3A:55-1.1(a), as it is redundant. The remaining subsections are recodified. At recodified N.J.A.C. 3A:55-1.1(a), (b), (d), and (e), the Office proposes to add references to N.J.S.A. 9:3A-9, which transfers the authority of the Department of Human Services to the Department of Children and Families (DCF). The Office is also proposing to clarify the citation to N.J.S.A. 30:4C-4 to 4(d) in recodified subsection 1.1(a).

Because the Division of Mental Health and Hospitals in the Department of Human Services became the Division of Mental Health and Addiction Services, a reference to that Division in recodified N.J.A.C. 3A:55-1.1(b)1 has been modified accordingly, as well. The Office is also proposing to remove reference to the Division of Developmental Disabilities in paragraph (b)1 since that Division no longer licenses children's residential facilities.

Because the Division of Youth and Family Services became the Division of Child Protection and Permanency (CP&P) in 2012, the definition of "Division" and reference to the former have been changed to the latter in recodified N.J.A.C. 3A:55-1.1(b)2 and (d)1 and 1.3. The Office proposes to change "approved" to "permitted" at N.J.A.C. 3A:55-1.1(b)2 to be more accurate.

The Office is proposing to update a number of references that are either no longer accurate or obsolete. Because responsibility for this chapter was assumed by the newly created Department of Children and Families (DCF) in 2006, references to the Department of Human Services in recodified N.J.A.C. 3A:55-1.1(a), (c), and (d), 1.3, 3.5, 5.6, and 8.1 are no longer correct and the Office proposes to change those sections to reference the Department of Children and Families instead.

Also, because DCF has opted to spread many of the functions relevant to this chapter across two divisions—the Division of Child Protection and Permanency and the Division of Children's System of Care—it is frequently more appropriate to make reference to the Department rather than to an individual division; references to "Division" have been corrected to refer to the "Department" in N.J.A.C. 3A:55-1.1, 1.2, 2.3, 2.4, 2.5, 3.3, 3.5, 3.7, 3.8, 5.1, 5.7, and 6.13. At recodified N.J.A.C. 3A:55-1.1(b)2, the Office has replaced the Division of Youth and Family Services with both the Division of Child Protection and Permanency and the Division of Children's System of Care in order to be specific. At N.J.A.C. 3A:55-2.5(d), the Office is adding a reference to the Department to cover organizational changes now and in the future. For example, the Office of Licensing is part of the Department, not part of the Division of Child Protection and Permanency at this time. At N.J.A.C. 3A:55-5.7(b) and (f), the Office is replacing the reference to Division and replacing it with the Office of Licensing to be accurate, as the Office of Licensing is no longer part of the Division.

The Office has made corrections of grammar and punctuation throughout the chapter to improve clarity.

Under DCF, the former Bureau of Licensing has also been renamed the Office of Licensing, and the Office therefore proposes to change references to the former in N.J.A.C. 3A:55-1.3, 2.1 through 2.6, 3.3, 3.7, 3.8, 4.1, 4.3, 4.4, 5.1, 5.6, 6.13, 6.15, 6.17, 7.7, 9.3, 10.10, 10.19, and 10.21. The Office is deleting the definition of the term "Bureau of Licensing" at N.J.A.C. 3A:55-1.3.

The Office proposes to define in N.J.A.C. 3A:55-1.3 "certificate of approval" or "certificate," a term used throughout the chapter to describe the license issued under this chapter, which was not previously defined. The Office also proposes to remove "regular certificate of approval" or "regular certificate" from the definitions and from N.J.A.C. 3A:55-2.1(c), 2.2(a), (b) and (d), and 3.8(b). This term is replaced by the newly-defined certificate of approval.

The Office proposes to eliminate in N.J.A.C. 3A:55-1.3 the definition for "temporary certificate of approval." The Office has ceased to provide temporary certificates for substantial compliance, and this chapter is modified to reflect that. Provisions related to the issuance of certificates in N.J.A.C. 3A:55-2.2(b) have been modified in furtherance of this change, and the provision at N.J.A.C. 3A:55-2.2(c) and (d)1 is proposed for revision. Under the new proposed language, an initial certificate of

approval may be issued for not more than six months for newly established programs meeting all life/safety provisions of this chapter. The change is intended to alleviate problems encountered by regulated providers in obtaining insurance, accreditation or other credentialing with a "temporary" certificate.

The Office proposes new N.J.A.C. 3A:55-2.4(c) that would allow the Department to remove children from a facility or place staff at the facility to ensure compliance with rules if it is determined that children residing at the facility are at risk. A substantially identical provision exists in N.J.A.C. 10:44A, the chapter under which the Department of Human Services governs programs providing residential care to certain persons with developmental disabilities. Incorporation of this provision here affords DCF a valuable tool for ensuring the safety and well-being of children placed in facilities under its authority, and ensures uniform enforcement mechanisms across programs.

The Office proposes to remove nonexistent titles of laws and refer instead to the legal citation. The New Jersey Child Abuse and Neglect Law is deleted from N.J.A.C. 3A:55-2.5(c), 3.7(a), and 5.1(e)1. The State Public Records Law is removed from N.J.A.C. 3A:55-2.5(c) and 2.6. The State Lead Paint Law is removed from N.J.A.C. 3A:55-4.4(g).

The Division of Child Protection and Permanency now has Local Offices, rather than District Offices. This term is amended at N.J.A.C. 3A:55-2.5(d).

The Office is replacing "the manual" with "the chapter" at N.J.A.C. 3A:55-3.3(a)2 through 6 and 4.1(a)6.

The Office is amending N.J.A.C. 3A:55-3.3(a)4 to remove the address of the Office of Licensing, as it is unnecessary here.

The Office proposes that staff members contact the child abuse hotline immediately when there is reasonable cause to believe that a child has been abused or neglected by anyone. This amendment is pursuant to N.J.S.A. 9:6-8.10.

In N.J.A.C. 3A:55-3.3(a)10, 3.7(a), and 5.1(e)1, the Office is proposing to update the telephone number for the State Central Registry, the hotline to which child abuse and neglect reports must be made in New Jersey. At N.J.A.C. 3A:55-3.3(a)10 and 3.7(e), the Office proposes to remove a separate telephone number for use by out-of-State facilities to report that a child is missing, as these facilities can use the number that they have on file to make this report.

The Office proposes to amend N.J.A.C. 3A:55-3.3(a)10 to remove specific types of behavior that do not necessarily constitute child abuse and neglect. The amended rule will now state that any person who has reasonable cause that a child has been subjected to child abuse must report child abuse or neglect. The Office is also proposing to amend N.J.A.C. 3A:55-5.1(e)1 to remove that a facility staff member must report suspected child abuse or neglect except by a child's parent or family member. N.J.S.A. 9:6-8.10 requires reporting when any person has reasonable cause to suspect that a child has been abused or neglected, without exception.

The Office proposes to amend N.J.A.C. 3A:55-3.3(a)11 to clarify that the facility is required to inform parents about how to secure information about child abuse and neglect.

The Office proposes to change the heading of section N.J.A.C. 3A:55-3.5 from "Conflict of interest" to "Conflict of interest and compliance with law," and to add a provision at new subsection (b) requiring that facilities comply with all applicable laws and regulations, as well as requirements of their respective contracts with DCF. Inclusion of this provision will permit the Office to take licensing action based on non-compliance with legal or contractual obligations not otherwise articulated in this chapter. This authority is particularly critical to allow the Office to ensure programs operate in accordance with safety requirements for differing populations and in the face of unique or changing circumstances without requiring a constant stream of modifications to this chapter.

The Office is proposing to remove references throughout to the Division of Child Protection and Permanency (CP&P) case manager. Most children placed in residential facilities do not have an open case with CP&P. Staff at CP&P are now referred to as "workers," rather than case managers. The Office is using the term "placing agency," already used in the rule, to include CP&P when applicable. "Case manager" is to be removed from N.J.A.C. 3A:55-3.6(b)4, 3.8(a), 5.1(e)2, 6.1(b)5, (c),

and recodified (g), 6.2(a), (b), and (c), 6.6(b)4 and (c)1, 6.13(c)1, (e)2, and (g), 7.3(b), 7.5(e)5ii and (h)3iii, 9.20(b), (b)1, (c)1, 2, and 3, and (d), 10.4(c), (f), and (i)2, 10.5(a), (b), and (c), 10.13(b)2, and 10.19(b) and (c). Similarly, the Office proposes to replace the "Division or the appropriate District Office" with the "placing agency," as it includes CP&P for those times when CP&P made the placement at N.J.A.C. 3A:55-3.7(e).

The Office proposes the Department's website as the location for getting information about child abuse and neglect in New Jersey, at N.J.A.C. 3A:55-3.7(a), rather than making this information available on request. This improves the public's access to the information. The Office is also proposing to remove "children" as persons who may abuse a child in paragraph 3.7(a), as children are not routinely in a caregiving role for another child. If they are, then they are covered by the phrase "any other person" who may abuse or neglect a child.

At N.J.A.C. 3A:55-3.7(c), the Office proposes to delete Chapter II to reference the State Sanitary Code, as it is not named Chapter II. The citation to N.J.A.C. 8:57, Communicable Diseases, is already contained in the paragraph. The Office is also removing "codified," as it is unnecessary.

The Office proposes to delete in N.J.A.C. 3A:55-3.8(b) numerous cross references to provisions in N.J.A.C. 3A:55-5.2.

The Office proposes to delete N.J.A.C. 3A:55-3.8(c)2ii, which requires the maintaining of reasons for discontinuance of employment in an employee record, and 3A:55-3.8(c)2v, which requires the maintaining of annual employee evaluations in the same. Personnel management and evaluation are an important function of facility management, but outside the scope of DCF's licensing authority or concern.

The Office proposes to modify both N.J.A.C. 3A:55-3.8(d) and recodified N.J.A.C. 3A:55-6.1(g) to extend the time period for which children's records must be maintained from three years following discharge to four. Because Federal audit requirements that may be applicable to those records extend three years from the date of the State's last claiming of Federal reimbursement for those expenses, a time period that may not precisely align with the child's discharge from the facility, it is essential that those records be preserved at least four years to ensure availability for auditing purposes.

The Office is proposing to amend N.J.A.C. 3A:55-4.3 to include a new subsection (d) to require that all keys are safeguarded in order to keep the children safe from harm.

The Office proposes to revise N.J.A.C. 3A:55-4.1(a)1 and 2 to conform to the revised requirements of the New Jersey Uniform Construction Code.

The Office is proposing in N.J.A.C. 3A:55-4.4(b) to establish a maximum air temperature of 80 degrees Fahrenheit in rooms used by children. No maximum air temperature has previously been included in this chapter. Temperatures in excess of 80 degrees are potentially hazardous to the health and comfort of children in placement.

The Office proposes to remove "as specified in" from N.J.A.C. 3A:55-4.4(g), as N.J.A.C. 8:51 is part of the State Sanitary Code.

The Office is proposing at N.J.A.C. 3A:55-4.4(k)2 to revise the temperature range for hot tap water. The previous maximum temperature of 110 degrees Fahrenheit was identified by providers as problematically low, so the Office is proposing a temperature range between 120 and 125 degrees Fahrenheit. This temperature range is in line with the recommendations of the Center for Disease Control.

The Office proposes to remove Chapter XII from N.J.A.C. 3A:55-4.4(l), as it was removed as part of the name of N.J.A.C. 8:24 in 2007. The Office also proposes to remove "as codified," as N.J.A.C. 8:24 is part of the State Sanitary Code.

The Office is proposing new subsection N.J.A.C. 3A:55-4.5(e), to require facilities to develop emergency preparedness plans. The language in this proposed provision reflects emergency preparedness provisions included in N.J.A.C. 3A:56 on group homes. In this instance as in those, it is believed that it is essential that facilities plan for potential disasters so as to mitigate potential harm to children in care.

The Office proposes to amend N.J.A.C. 3A:55-5.1(e)1 to use the term "child abuse," as that is the term used throughout the chapter.

The Office is proposing to amend N.J.A.C. 3A:55-5.1(e)3 to state that the facility staff shall notify the Division worker, if applicable, and the

parents of any unusual incidents and shall keep a record of these incidents. The amendment includes examples of incidents. The amendments are intended to increase parental awareness of potential abuse or neglect and to ensure effective functioning of the Department's Unusual Incident Reporting system.

The Office is proposing to amend N.J.A.C. 3A:55-5.1(e)7, 5.6(b), and 5.7(b) to use the term "renew a certificate," as that is the standard term used in the chapter.

The Office is proposing in N.J.A.C. 3A:55-5.2(b)3 to articulate that the administrator or director of a facility shall be responsible for, in addition to other duties, oversight and supervision of consultant physicians and advanced practice nurses in order to ensure clarity on this responsibility.

The Office proposes to replace the Department of Personnel with the Civil Service Commission at N.J.A.C. 3A:55-5.2(b)2iii, (c)2iii, (d)3iii, (e)2iii, and (f)4iv. The Civil Service Commission was created on June 30, 2008, by P.L. 2008, c. 29.

The Office is proposing to articulate in N.J.A.C. 3A:55-5.2(c)3 that the social services/clinical director at each facility is responsible for ensuring adequate clinical and direct care staffing when there are changes in the population.

The Office is proposing minor linguistic changes in N.J.A.C. 3A:55-5.2(d)3i and ii. To ensure clarity in the existing provision "but" is being replaced in both instances with "except that any person who." The meaning of the provisions is unchanged.

The Office proposes new N.J.A.C. 3A:55-5.2(d)4, 5.2(e)3, and 5.2(f)5 to require heightened levels of experience for social workers, child care directors, and child care staff providing services to children with particularly serious behavioral histories, including fire setting, sexual offenses, and physically assaultive behavior.

The Office is proposing new N.J.A.C. 3A:55-5.2(g) and (h) to allow persons who do not meet other eligibility requirements for child care staff to be employed on a probationary basis if they meet other requirements. The intent of these provisions is to ensure that facilities are afforded maximum flexibility in meeting personnel needs without unnecessarily compromising the safety or well-being of children in care.

Because they may be employed to provide medical services at facilities, the Office proposes to expand the personnel requirements in recodified N.J.A.C. 3A:55-5.2(k) to include physician assistants and advanced practice nurses. These requirements already apply to physicians and nurses performing the same functions.

The Office is proposing significant amendments to the staff to child ratios in N.J.A.C. 3A:55-5.3(a)3 to ensure that the ratio of social services workers to children is consistent with standards of professional practice. Though historically this chapter governed a large segment of providers who served children without behavioral health or clinical needs, DCF has ceased to license these programs, and these new ratios are reflective of necessary ratios for facilities providing those services. Rather than one social services worker for every 20 children, a 1 to 15 ratio will need to be maintained for facilities that provide services to children with emotional or behavioral problems, drug and alcohol problems, or physical disabilities, and in adventure programs that serve children with emotional or behavioral problems.

In the same section at paragraph 4, the Office is proposing to clarify that a part time nurse is one who provides one hour of service per child each week, in those facilities with fewer than 35 children.

Because the intent of the ratios is to ensure adequate supervision of children in care, the Office is proposing revisions to N.J.A.C. 3A:55-5.3(a)6 to require that minimum child care staff be awake in each living unit at the facility during sleeping hours. The ratios are maintained at 1 to 50 in most facilities.

Because DCF has observed an increased need for professionals in residential child care settings with awareness of these issues, the Office is proposing to expand the list of areas in which required annual staff training may be drawn to include "gang activity awareness," "bullying activity awareness," "human trafficking," "trauma and adolescent brain development," and the "reduction and elimination of restraints" at N.J.A.C. 3A:55-5.4(c)5 through 9. To accommodate the increased breadth of the training subjects, and the critical importance of these

topics, the Office also proposes to amend the required number of training hours from 12 to 14 at N.J.A.C. 3A:55-5.4.

The Office proposes to amend the term "individual" to "director" at N.J.A.C. 3A:55-5.7(f)2. The person is identified as a director at N.J.A.C. 3A:55-5.7(f). This amendment uses consistent terminology.

The Office proposes to amend N.J.A.C. 3A:55-6.1(c) to revise the people who can be invited to participate in treatment planning. The Office proposes to remove "or legal guardian," as the definition of "parent" includes a legal guardian at N.J.A.C. 3A:55-1.3. The Office also proposes to remove "and/or current" school district staff as persons invited to be part of the treatment team, as the list of invitees is already conditioned on the attendees being appropriate. Amendments to subsection 6.1(d) clarify the time frames for developing, reviewing, and revising treatment plans.

The Office proposes additional requirements for treatment plans for children with complex behavioral or mental health needs at N.J.A.C. 3A:55-6.1(f). These complete treatment plans are necessary to set up treatment for children with complex needs.

In order to ensure that the intent of the requirement in N.J.A.C. 3A:55-6.2(a) that a child's discharge plan be sent to the child placing agency well in advance of actual discharge, the Office is proposing to specify that this transmission must occur at least 30 days prior to the discharge. This will ensure that meaningful planning and preparation can occur.

Though the Office believes this was inherent in the prohibition on facilities requiring a child to assume responsibility for expenses of his or her care, anecdotal evidence suggests a need to clarify that children may not be made to assume responsibility for the expense of their laundry or hygiene supplies. The Office believes, again, that this is clarification of the existing language in N.J.A.C. 3A:55-6.5(b), where it proposes to spell it out more explicitly. The Office also proposes to amend (b)4 to allow children to perform additional chores as long as the chores comply with N.J.A.C. 3A:55-6.4(b). The purpose is to clarify that all chores must follow the standards of subsection (b).

The Office is proposing an amendment to N.J.A.C. 3A:55-6.7(g) to require New Jersey facilities to comply with Tabitha's Law, N.J.S.A. 18A:36-25.6. The staff must notify the public school that the child attends when a child will be absent.

Also, because the Office believes it is essential that children be served food that they are able to eat, it proposes to amend N.J.A.C. 3A:55-6.11(b)2 to include accommodation for children with food allergies, in addition to those on special diets or requiring accommodation of religious custom. The Office proposes to amend the reference to the four basic food groups. At present, the United States Department of Agriculture has five food groups, so the amendment references the Department of Agriculture, rather than specifying something that may change.

Consistent with the Department's stated objective of limiting restrictive behavior management in residential care, the Office is proposing new subsection N.J.A.C. 3A:55-6.13(k) that would ban mechanical restraints on January 1, 2020. Recodified N.J.A.C. 3A:55-6.13(l) is also amended to clarify that it is only in effect for facilities that choose to use mechanical restraints through December 31, 2019.

Additionally, the Office proposes at recodified N.J.A.C. 3A:55-6.13(l)15x and (m) to allow certain facilities to use either four- or five-point restraints, rather than four and five point restraints. This clarifies that one or the other type of restraint is allowed.

The Office proposes to delete N.J.A.C. 3A:55-6.13(n), as the Division of Child Protection and Permanency no longer operates residential facilities.

The Office is also proposing to prohibit, in N.J.A.C. 3A:55-6.14(d), the use of repetitious writing and deprivation of snacks as punishments to be used on children; neither form of punishment is justifiable per standards for professional practice.

Because the comprehensive health plan required under N.J.A.C. 3A:55-7.1 is critical to the population served by residential child care facilities licensed under this chapter, the Office proposes to expand the plan to include mental health needs, in addition to physical health needs. For many or most of the children served by these facilities, these needs are of greater concern.

To ensure that facilities are prepared in advance of the need for medical services, the Office is proposing to expressly require in new N.J.A.C. 3A:55-7.2(a) that facilities identify a physician or health care organization to assume responsibility for routine, emergency, and follow-up medical care for each child.

At recodified N.J.A.C. 3A:55-7.2(b), the Office has added that vision and hearing screenings are acceptable for one year, rather than the 30 days before placement or 72 hours after placement for the medical examination. Medicaid pays for yearly screenings, which is adequate.

The Office is proposing to update N.J.A.C. 3A:55-7.4(f)2ii to reflect that the previously required practice of flushing surplus medication down a toilet is prohibited by N.J.S.A. 58:10A-10.12. Facilities under the Office's standards will now be required to secure and arrange for the disposal of the medication pursuant to law.

Where N.J.A.C. 3A:55-8.1(c)3 previously alternated in its use of the terms "vehicle" and "car," the Office is proposing that the single, more comprehensive term "vehicle" be used exclusively.

Because the Division of Motor Vehicles (DMV) became the Motor Vehicle Commission (MVC) in May 2003, pursuant to the Motor Vehicle Security and Customer Service Act of 2003, a number of references to the former have been proposed to be changed to the latter in N.J.A.C. 3A:55-8.1.

The Office is proposing to amend N.J.A.C. 3A:55-8.1(e) to reflect new statutory requirements at N.J.S.A. 39:3-76.2a and 39:3-76.2e on the use of child safety restraint systems, booster seats, and seatbelts.

The Office proposes to amend the types of licenses needed by school bus drivers at N.J.A.C. 3A:55-8.1(i)2. The Office proposes to delete N.J.A.C. 3A:55-8.2, which addresses vehicle insurance requirements. The Office does not see that this section is necessary as vehicle insurance requirements are covered generally by State law, as well as being required in the contracts that DCF or another State agency has with residential facilities. N.J.A.C. 3A:55-8.3 and 8.4 are recodified as 8.2 and 8.3.

Recodified N.J.A.C. 3A:55-8.3(a) is proposed for deletion, as State law already requires drivers to have a valid driver's license. Recodified N.J.A.C. 3A:55-8.3(a)1 is amended to remove "photostatic," as it does not add anything significant to the required copy. Recodified section 8.3(c) is amended to limit the requirement to keep trip records for only trips that are not routine. The content of the trip record is amended in paragraphs 1 through 3.

The Office is proposing to amend N.J.A.C. 3A:55-9.1(n) and delete N.J.A.C. 3A:55-9.1(o). The Office proposes to eliminate in the former subsection an onerous requirement that facilities obtain and maintain on file weather reports issued by the National Weather Service no earlier than six hours prior to a trip, and to eliminate the latter subsection's requirement that similar documentation be obtained from "the park service or other appropriate state or local agency" to indicate the absence of environmental hazards such as fires, polluted water, and threat of flash floods or avalanches. These deletions would leave in place a simpler requirement that trips and activities be cancelled if threatened by severe storm or other environmental hazard. Given the abundance of information sources available to facilities, and the anticipated and quite reasonable reliance on common sense in making these decisions, the Office believes the current requirement is unduly burdensome and unnecessary.

The Office is proposing to amend recodified N.J.A.C. 3A:55-9.1(o) to clarify that children shall not engage in water activities when the water contains hazardous waste, rather than the facility.

The Office is proposing to amend and revise a presently ambiguous requirement in N.J.A.C. 3A:55-9.2(e) that facilities, for adventure activities occurring off the facility's grounds, "give at least one staff member money or credit cards to handle emergencies." To better state the only rational interpretation of that requirement, the Office is proposing to change it to "ensure that at least one staff member has money or credit cards sufficient to cover reasonably anticipated emergency expenses."

The Office proposes to amend N.J.A.C. 3A:55-9.3(a) to bring the text and the citation into agreement. The Office proposes to remove "as soon as staff have access to a telephone" and retain the citation to N.J.A.C. 3A:55-3.7(b), which requires notification by the next working day.

Because the current requirement does not specify a deadline, the Office is proposing to amend N.J.A.C. 3A:55-9.3(b) to require that reports about near fatality incidents be reported to the Office within five working days. The Office is also proposing that these reports be made simultaneously to the child's parents and the Office, ensuring rightful awareness of matters integral to the child's well-being, and eliminating the need for N.J.A.C. 3A:55-9.3(b)3.

The Office believes the requirement to submit a written description of "medium risk adventure activities" is unduly burdensome and unnecessary, and therefore proposes to delete N.J.A.C. 3A:55-9.3(d), as well as a reference to it at recodified 9.3(d).

Acknowledging that mountain biking is an inherently different and likely more dangerous activity than biking on sidewalks or paths, the Office proposes minimal safety standards for mountain biking in newly proposed N.J.A.C. 3A:55-9.4(c).

The provision at N.J.A.C. 3A:55-9.13, as currently promulgated imposes requirements for the presence of a lifeguard only at swimming facilities located off the grounds of a licensed facility. Because the Office acknowledges no decreased likelihood of drowning or injury at swimming facilities located on-site at licensed facilities, it is proposing to extend the same requirement to those swimming facilities as well.

The Office proposes to clarify the title of N.J.A.C. 3A:55-10.2 by adding "to child" to "Staff and staff to child ratio requirements," as ratios need two items.

Owing to the need to ensure safety for both adults and infants at facilities providing services to pregnant and parenting adolescents, a requirement is proposed to be added to N.J.A.C. 3A:55-10.2(c) that a staff person certified in infant CPR be in the facility during periods of operation. Requirements already exist for persons certified in first aid and regular adult CPR to be present.

Recognizing the need for unique skills to be honed for staff members at programs serving pregnant and parenting adolescents, which are different than skills required in other programs, the Office is proposing to modify the requirement in N.J.A.C. 3A:55-10.3(a) to require these staff to receive instruction in (1) recognizing and reporting child abuse and neglect, (2) infant, toddler, and adolescent growth and development, and (3) infant feeding and nutrition, in addition to the standard training areas, which are referenced for the convenience of the reader.

The Office is amending N.J.A.C. 3A:55-10.6(b) to establish a new requirement that topics regarding the baby's father must be addressed with an adolescent mother prior to discharge. This allows the facility to assist the adolescent mother to establish paternity. The Office proposes to delete the requirements for regular individual and group meetings, as the Office has concluded that the frequency, location, and necessity of such meetings is best left to the discretion of providers.

The Office is also proposing to amend N.J.A.C. 3A:55-10.6(c) to be less prescriptive in the facility's responsibility to contact the baby's father. This allows the facility staff to work with the adolescent mother and father as circumstances warrant.

Likewise, the Office is proposing to amend N.J.A.C. 3A:55-10.7 to be less prescriptive in the facility's responsibility to contact the adolescent mother's parents. The facility can work with the adolescent mother and her parents in an individualized manner.

The Office is proposing to amend N.J.A.C. 3A:55-10.9(d) to correct the types of child care available in New Jersey. Family child care homes are registered, not licensed, pursuant to N.J.S.A. 30:5B-16 et seq. There is no "group day care home" licensed or registered in New Jersey.

The Office proposes to delete the lists of toys from N.J.A.C. 3A:55-10.9(e)1 through 6 and (f)1 through 7. These sections list toys and activities that adolescent mothers with infants must engage in each day. This level of detail is not necessary in rules. The types of activities remain. Additionally, the Office proposes to amend "available" for "accessible" at N.J.A.C. 3A:55-10.9(c). It is unreasonable to require toys to be accessible to infants who are not mobile.

The Office is amending N.J.A.C. 3A:55-10.10(b) to allow either a choker tube or similar device to be used to measure toys. The Office has concluded that choker tubes are one of several types of measuring tools that can be used to measure toys. The amendment allows the use of future advances in the technology.

The Office proposes to amend N.J.A.C. 3A:55-10.12(a) to remove the reference to receiving AFDC benefits and to replace it with a prohibition on pregnant adolescents and adolescent mothers working only if that compromises her eligibility for benefits. The Office believes that work experience is beneficial for adolescent mothers.

Finally, in order to achieve compliance with changes in medical recommendations since the last amendment of these rules, the Office is proposing extensive changes to the requirements in N.J.A.C. 3A:55-10.16. The immunizations schedules, previously spelled out and pinned to landmark ages during the development of the impacted child in subsection (b) have been consolidated into a single new subsection (c). The requirement to ensure booster shots for a child five years or older, previously contained in (e), is no longer consistent with medical recommendations and the Office therefore proposes its elimination. Additionally, the American Dental Association and Medicaid's Early Periodic Diagnostic and Treatment program, among others, recommend that a child's first dental examination occur by the age of 12 months. The Office is amending (b)10 to reflect this recommendation.

Additionally, N.J.A.C. 3A:55-10.16(b) is amended to spell out phenylketonuria and to add "of age" throughout wherever an age is stated in months.

At N.J.A.C. 3A:55-10.17(a), the Office proposes that adolescent mothers who are not pregnant have a health examination within 72 hours of admission if they have not been examined within 30 days, rather than one year. This assures that the adolescent mother's health status is known so that any necessary treatment can be pursued.

N.J.A.C. 3A:55-10.19(a) has been reorganized for consistency.

#### Social Impact

The Department anticipates the proposed amendments and repeal will have a positive social impact on the residential child care facilities regulated under this chapter by providing clear requirements that they must meet and on the children who live in those facilities, as these rules protect their health, safety, and well-being.

#### Economic Impact

The proposed amendments and repeal will not have a discernible economic impact on the residential child care facilities. Though superficially the modifications proposed to staff/child ratios would necessitate the retention of additional staff in facilities, each of these facilities has operated exclusively under contract with DCF, and ratios in excess of the current regulation have been mandated by provision of contracts. DCF anticipates only negligible increases in the cost of operating a facility licensed under this chapter, and asserts that any increase, slight as it is anticipated to be, will be greatly offset by the increased protections afforded to the life and safety of children residing in these programs.

The rules assist the Department in meeting the standards of Title IV-E of the Social Security Act. 42 U.S.C. § 671(a)(10) requires standards for child care institutions that are reasonable in accord with recommended standards of national organizations in areas such as admission, safety, sanitation, and protection of civil rights. 42 U.S.C. § 671(a)(11) requires the periodic review of these standards to assure their continued appropriateness. This chapter meets those requirements for residential child care facilities used by CP&P. The 2017 Title IV-E appropriation is \$168,234,000. The 2017 Title IV-B appropriation is \$10,831,000.

#### Federal Standards Statement

When a state receives funds from Titles IV-B and IV-E of the Social Security Act, 42 U.S.C. § 671(a)(10) requires the state to establish and maintain standards for child care institutions that are reasonably in accord with the recommended standards of national organizations. As DCF receives funding from Titles IV-B and IV-E, the proposed amendments and repeal implement and do not exceed Federal requirements.

#### Jobs Impact

The Division anticipates that the proposed amendments and repeal will not result in the generation or loss of any jobs. Though superficially the modifications proposed to staff/child ratios would necessitate the

retention of additional staff in facilities, each of these facilities has operated exclusively under contract with DCF, and ratios in excess of the current regulation have been mandated by provision of contracts. Though future requirements of DCF may result in job creation under this chapter, the raising of those staff ratios will guard against any future reduction in jobs.

#### Agriculture Industry Impact

The proposed amendments and repeal have no impact on the agriculture industry.

#### Regulatory Flexibility Analysis

Residential child care facilities are considered small businesses under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Since the proposed amendments and repeal impose reporting, recordkeeping, and other compliance requirements on these agencies, a regulatory flexibility analysis is required.

Professional medical, dental, psychological, educational, and social work services for the children are required to comply with the proposed amendments and repeal. All costs for professional services and all costs for compliance, reporting, and recordkeeping are borne by the State through funding to the regulated programs or to the professional services providers. These small businesses are not exempt from these requirements because they are necessary to protect the health, safety, and welfare of the children placed in residential treatment facilities. No capital expenditures are imposed by the proposed amendments and repeal.

#### Housing Affordability Impact Analysis

The proposed amendments and repeal have no impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the proposed amendments and repeal would evoke a change in the average costs associated with housing because the proposed amendments and repeal pertain to general provisions of the licensing of children's residential facilities.

#### Smart Growth Development Impact Analysis

The proposed amendments and repeal have no impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed amendments and repeal pertain to the Department's licensing of residential child care facilities.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 3A:55-1.1 Legal authority

[(a) This chapter is promulgated pursuant to N.J.S.A. 30:1-14 and 15 and 30:4C-4.]

[(b)] (a) Under N.J.S.A. 30:1-14, as applied by N.J.S.A. 9:3A-9 and 30:4C-4(d), the Department of [Human Services] **Children and Families** is authorized to inspect, evaluate, and approve publicly or privately operated facilities that provide board, lodging, care, and treatment services for children who are placed [and/]or financed by the [Division of Youth and Family Services] **Department** or any other New Jersey State agency.

[(c)] (b) Under N.J.S.A. 30:1-14, as applied by N.J.S.A. 9:3A-9, the following facilities shall be subject to inspection, evaluation, and approval by the Department [of Human Services, Division of Youth and Family Services]:

1. New Jersey-based children's residential facilities, as defined in this chapter, except facilities that are licensed, approved, or regulated pursuant to State law by [the Division of Developmental Disabilities or] the Division of Mental Health [and Hospitals,] **and Addiction Services** [both] of the Department of Human Services, by the State Department of Health, by the State Department of Education, by the State Department of Corrections, or by any other New Jersey State agency; and

2. Out-of-State children's residential facilities as defined in this chapter, that serve one or more children under the supervision or care of the Division of [Youth and Family Services] **Child Protection and Permanency or the Division of Children's System of Care**. As a condition of approval by the Department, [such] these facilities shall be licensed, certified, or otherwise [approved] **permitted** to operate in the state where the facility is located.

[(d)] (c) In order to be approved, a children's residential facility shall demonstrate to the satisfaction of the Department [of Human Services] or its duly authorized agent that it complies with all applicable provisions of this chapter.

[(e) Responsibility for ensuring that the facility specified in (c) above complies with the provisions of the statutes cited in (a) above and of this chapter is delegated by the Department of Human Services to the Division of Youth and Family Services, Bureau of Licensing. The Division is authorized to visit and inspect such facilities, as described in N.J.A.C. 3A:55-1.2(a) and (b), to determine the extent of their compliance with such provisions.]

[(f)] (d) Under N.J.S.A. 30:1-15, as applied by N.J.S.A. 9:3A-9, the Department of [Human Services] **Children and Families** is also authorized to visit and inspect publicly or privately maintained institutions or other institutions and noninstitutional agencies that:

1. Provide board, lodging, or care for children who are not placed or financed by the Division [of Youth and Family Services] of **Child Protection and Permanency** or any other New Jersey State agency; and  
2. (No change.)

[(g)] (e) The [Division of Youth and Family Services] **Department** is authorized to visit and inspect [such] facilities [as] described in [(f)] (d) above to assess the general health, safety, and well-being of the children and the care and treatment they are receiving, but cannot require their compliance with this chapter and must secure an order from a court of competent jurisdiction, pursuant to N.J.S.A. 30:1-16, as applied by N.J.S.A. 9:3A-9, to compel correction of serious deficiencies.

3A:55-1.2 Definition and types of children's residential facilities

(a) (No change.)

(b) Residential child care facilities that are subject to the provisions of this chapter include:

1. [Division contracted] **Department-contracted** or [Division-operated] **Department-operated** residential child care facilities that serve children with emotional [and/or] or behavioral problems and provide on-grounds educational programming;

2. [Division contracted] **Department-contracted** or [Division-operated] **Department-operated** residential child care facilities that serve children with emotional [and/or] or behavioral problems who attend schools in the community; and

3. [Division contracted] **Department-contracted** residential child care facilities that provide:

i. iii. (No change.)

iv. Adventure programs that serve children with emotional [and/or] or behavioral problems.

3A:55-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings:

...

["Bureau" means the Bureau of Licensing of the Division of Youth and Family Services, New Jersey Department of Human Services.]

"Certificate of approval" or "certificate" means a document issued by the Office of Licensing to a facility indicating that the facility is in substantial compliance with all applicable provisions of this chapter, and that there is no serious or imminent hazard that exists in the facility affecting the children.

...

"Child" means any person who is under 18 years of age [and/or] or any person between the ages of 18 and 21 who is under the supervision of the Division in placement in a residential child care facility.

"Denial of a certificate" means the withholding by the [Bureau] **Office of Licensing** of an initial certificate of approval for which a facility has applied.

"Department" means the New Jersey Department of [Human Services] **Children and Families**.

...

"Division" means the Division of [Youth and Family Services] **Child Protection and Permanency**, New Jersey Department of [Human Services] **Children and Families**.

...

"Refusal to renew a certificate" means the non-issuance of a certificate of approval by the [Bureau] **Office of Licensing** to a facility after its existing certificate has expired.

["Regular certificate of approval" or "regular certificate" means a document issued by the Bureau to a facility indicating that the facility is in full compliance with all applicable provisions of this chapter.]

...

["Temporary certificate of approval" or "temporary certificate" means a document issued by the Bureau, to a facility that is in substantial compliance with all applicable provisions of this chapter, provided that no serious or imminent hazard affecting the children exists in the facility.]

## SUBCHAPTER 2. APPROVAL PROCEDURES

### 3A:55-2.1 Application for a certificate of approval

(a) No person shall operate a residential child care facility that provides board, lodging, care, and treatment services for children who are placed or financed by the Division or by any other New Jersey State agency without first securing a certificate of approval from the [Bureau] **Office of Licensing**, except for facilities that are subject to licensing or regulatory approval pursuant to State law by any other New Jersey State agency.

(b) A facility applying to the [Bureau] **Office of Licensing** for an initial certificate of approval shall submit a completed application form to the [Bureau] **Office of Licensing**, including the documentation specified in N.J.A.C. 3A:55-4.1(a), (b), and (c), at least 45 calendar days prior to the anticipated opening of the facility.

(c) A facility applying to the [Bureau] **Office of Licensing** for a renewal of its certificate of approval shall submit a completed application form to the [Bureau] **Office of Licensing**, including the documentation specified in N.J.A.C. 3A:55-4.1(d), at least 45 calendar days prior to the expiration of its existing [regular] certificate.

(d) (No change.)

### 3A:55-2.2 Issuance of a certificate of approval

(a) The [Bureau] **Office of Licensing** shall issue a [regular] certificate of approval to a facility that has achieved full compliance with all applicable provisions of this chapter.

(b) If the [Bureau] **Office of Licensing** determines that a facility [is in substantial compliance with, but does not meet all applicable provisions of, this chapter, and provided that there is no] **cannot be issued a certificate of approval when there is serious or imminent hazard** to the education, health, safety, well-being, or treatment needs of the children, the [Bureau] **Office of Licensing** shall [issue a temporary certificate] **provide written notification** to the facility [and indicate in writing] **indicating** the steps the facility must take to secure a [regular] certificate of approval.

[(c) A temporary certificate may be issued for a period not to exceed six months. The Bureau may issue as many temporary certificates as it deems necessary.]

(c) **The Office of Licensing shall issue an initial certificate of approval for a period not to exceed six months to a new facility not previously in existence that has achieved substantial compliance with all applicable life/safety provisions of this chapter and has completed the application form for an initial certificate of approval, as specified in N.J.A.C. 3A:55-2.1(b). Within six months of the issuance of the initial certificate of approval, the Office of Licensing shall conduct a comprehensive program and life/safety inspection and, upon the facility's substantial compliance with all applicable provisions of this chapter, issue a certificate of approval for the time period specified in (d) below.**

(d) Each certification period[, which may include the issuance of one or more temporary certificates or one regular certificate,] shall be two years.

1. In determining the expiration date of the first [regular] certificate of approval, the [Bureau] **Office of Licensing** shall compute the two-year approval period from the date of issuance of the first [temporary or regular] certificate.

2. In determining the expiration date of a renewed [regular] certificate, the [Bureau] **Office of Licensing** shall compute the two-year approval period from the date on which the previous [regular] certificate expired. If however, the facility has ceased to operate for a period of one year following the expiration date of its previous [regular] certificate, the [Bureau] **Office of Licensing** shall compute the date of expiration from the date of issuance of a new certificate.

(e)-(g) (No change.)

3A:55-2.3 Denying, suspending, revoking, or refusing to renew a certificate of approval

(a) The [Bureau] **Office of Licensing** may deny, suspend, revoke, or refuse to renew a certificate of approval for good cause, including, but not limited to, the following:

1.-3. (No change.)

4. Refusal to furnish the [Division] **Department** with files, reports, or records as required by this chapter;

5. Refusal to permit an authorized representative of the [Division] **Department** to gain admission to the facility or to conduct an inspection or investigation;

6. Any activity, policy, or staff conduct that adversely affects or is deemed by the [Bureau] **Office of Licensing** to be detrimental to the education, health, safety, well-being, or treatment needs of children or that otherwise demonstrates unfitness by the director or staff members of the facility to operate a residential child care facility;

7.-14. (No change.)

(b) The [Bureau] **Office of Licensing** shall provide written notice to the facility if it intends to deny, suspend, revoke, or refuse to renew its application for a certificate. This notice shall specify the [Bureau's] **Office of Licensing's** reasons for [such] **the** action and the need for the facility to come into compliance prior to [such] **the** action being taken.

(c) If the [Bureau] **Office of Licensing** denies, revokes, or refuses to renew a certificate of approval, as specified in (a) above, the facility shall be prohibited from reapplying for a certificate of approval for one year from the date of certificate denial, revocation, or refusal to renew. After the one-year period has elapsed, the facility may submit to the [Bureau] **Office of Licensing** a new application for a certificate.

(d) If a certificate is suspended, the [Bureau] **Office of Licensing** shall issue or reinstate the certificate once the facility achieves compliance with the provisions of this chapter. In [such a] **this** case, the [Bureau] **Office of Licensing** shall not require the facility to submit a new application for a certificate unless [such] reapplication is expressly made a condition of the issuance or reinstatement of the certificate.

(e) Each certificate of approval issued by the [Bureau] **Office of Licensing** to a facility remains the property of the State of New Jersey. If the [Bureau] **Office of Licensing** suspends or revokes a certificate of approval, the facility shall return the certificate of approval to the [Bureau] **Office of Licensing** immediately.

3A:55-2.4 Administrative hearings

(a) If a facility fails to comply with all applicable provisions of this chapter, the [Bureau] **Office of Licensing** shall issue a directive ordering compliance. Prior to the [Bureau's] **Office of Licensing's** decision to deny, suspend, refuse to renew, or revoke a facility's certificate of approval, the facility shall have the opportunity to request an administrative hearing, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) As long as the [Division] **Department** determines that children are not at risk and that no imminent dangers exist, the [Bureau] **Office of Licensing** may permit a facility that has requested an administrative hearing, as specified in (a) above, to continue to operate until a final decision is rendered as a result of the hearing.

**(c) If it is determined that the children residing at the facility are at risk, the Department may:**

**1. Remove the children from the residence; or**

**2. Place staff approved by the Department at the facility to ensure the children's safety.**

3A:55-2.5 Complaints

(a) Whenever the [Bureau] **Office of Licensing** receives a report questioning the approval status or compliance of a facility or alleging a violation of this chapter, the [Bureau] **Office of Licensing** shall ensure that the allegation is promptly investigated to determine whether the complaint is substantiated.

(b) If a serious complaint is received that alleges imminent hazard or risk to the health, safety, and welfare of the children, the [Bureau] **Office of Licensing** shall investigate the complaint within 24 hours.

(c) After the report of the investigation has been completed, the [Bureau] **Office of Licensing** shall notify the facility in writing of the results of the investigation within 15 days, pursuant to [the State Public Records Law,] N.J.S.A. 47:1A-1 et seq., with the exception of any information not permitted to be disclosed pursuant to [the Child Abuse and Neglect Law,] N.J.S.A. 9:6-8.10a, or any other State law.

(d) Whenever the Division or **Department**, through its [Bureau] **Office of Licensing**, Institutional Abuse Investigation Unit or [District Offices] **local offices**, conducts complaint investigations, the facility shall cooperate with all [Division] **Department** investigators.

3A:55-2.6 Public access to the [Bureau's] licensing **Office of Licensing's** records

Licensing files maintained by the [Bureau] **Office of Licensing** are public records and shall be readily accessible for examination by any person, under the direction and supervision of the [Bureau] **Office of Licensing**, except when public access to records is restricted, in keeping with [the State Public Records Law,] N.J.S.A. 47:1A-1 et seq., or other applicable statutes.

### SUBCHAPTER 3. ADMINISTRATION

3A:55-3.3 Information to parents and staff members

(a) The facility shall provide to every parent within five working days of his or her child's placement, and to every person upon becoming a staff member, a written document indicating that the facility is required to:

1. Secure a certificate of approval to operate from the [Bureau] **Office of Licensing**;

2. Comply with all applicable provisions of [the manual] **this chapter**;

3. Retain a current copy of [the manual] **this chapter** and make it available for review by parents of resident children;

4. Indicate how parents may secure a copy of [the manual] **this chapter** by contacting the [Bureau] **Office of Licensing**, Division of Youth and Family Services, CN 717, Trenton, New Jersey 08625-0717;

5. Afford parents the opportunity and time to review and discuss with the facility director any questions or concerns about policies, requirements, provisions, or alleged violations of [the manual] **this chapter**;

6. Advise parents that if they believe or suspect that the facility is in violation of any provision of [the manual] **this chapter**, they may report [such] alleged violations to the [Bureau] **Office of Licensing**;

7. Make available, upon request, for parents' review the [Bureau's] **Office of Licensing's** Inspection/Violation and Complaint Reports on the facility, as well as any letters of enforcement or other actions taken against the facility during the current certificate of approval period;

8.-9. (No change.)

10. [Indicate through this document] **State** that any person who has reasonable cause to believe that a child residing in the facility has been or is being subjected to any form of [hitting, corporal punishment, abusive language, ridicule, or harsh, humiliating or frightening treatment, or any other kind of] child abuse[,] or neglect [or exploitation by any person, whether working at the facility or not,] is required by State law to report [such] **the** allegations to the [Division's] Office of Child Abuse Control, TOLL FREE in New Jersey at 1-800-792-8610, or

for out-of-State calls use (609) 292-8799 or any District Office immediately, and indicate that such reports may be made anonymously] **Department's toll-free hotline, 1-877-NJ-ABUSE (652-2873), pursuant to N.J.S.A. 9:6-8.10. Reports may be made anonymously;**

11. [Indicate through this document how] **Inform** parents and staff members **that they** may secure information about the prevention and reporting of child abuse and neglect by contacting the [Division] **Department;**

12.-13. (No change.)

(b) (No change.)

### 3A:55-3.5 Conflict of interest **and compliance with law**

(a) Each facility receiving funds from the [Division] **Department** shall adopt a written conflict of interest policy, as required by the facility's contract with the Department [of Human Services].

1.-2. (No change.)

**(b) Each facility receiving funds from the Department shall comply with all applicable Federal, State, and local laws.**

### 3A:55-3.6 Intake and admissions

(a) (No change.)

(b) For all placements, the facility shall have the following information on file in the child's record upon the child's admission:

1.-3. (No change)

4. The name, address, and telephone number of the [case manager of the Division's District Office or other] **worker at the placing agency;**

5.-10. (No change.)

(c)-(e) (No change.)

### 3A:55-3.7 Reporting requirements

(a) The director or any staff member shall **immediately** notify verbally the [Office of Child Abuse Control or District Office immediately] **Department's toll-free hotline, 1-877-NJ-ABUSE (652-2873),** whenever there is reasonable cause to believe that a child has been or is being abused or neglected by staff members[, children] or any other person, as required by [the New Jersey Child Abuse and Neglect Law,] N.J.S.A. 9:6-8.9, 8.10, 8.13, and 8.14. Copies of the law and information about it are available from the [Division] **Department,** upon request] **at [www.nj.gov/DCF/reporting](http://www.nj.gov/DCF/reporting).**

(b) The facility shall notify the [Bureau] **Office of Licensing** verbally of any of the following changes or events by the next working day after the facility learns of their occurrence, to be followed by written notification to the [Bureau] **Office of Licensing** within five working days:

1.-4. (No change.)

(c) The facility shall notify the [Bureau] **Office of Licensing** verbally of any of the following changes or events by the next working day after the facility learns of their occurrence:

1. The occurrence of a reportable disease, as specified in [Chapter II of] the State Sanitary Code[, codified] at N.J.A.C. 8:57;

2. Proposed relocation of the facility to a site not approved by local municipal officials and the [Bureau] **Office of Licensing,** as specified in N.J.A.C. 3A:55-4.1;

3. (No change.)

4. Proposed use of space involving rooms not approved by the [Bureau] **Office of Licensing,** as specified in N.J.A.C. 3A:55-4.1(a)5.

(d) The facility shall notify the [Bureau] **Office of Licensing** in writing at least 30 calendar days before any of the following proposed changes or events:

1.-4. (No change.)

(e) The facility shall notify the [Division or the appropriate District Office] **placing agency** and the child's parents within 24 hours of any unauthorized absence of a child from the facility. [For out-of-state facilities, the phone number of the Office of Child Abuse Control is 1-609-292-8799.]

### 3A:55-3.8 Records

(a) The facility's records shall be open for inspection by authorized representatives of the [Bureau] **Office of Licensing,** the [Division's] **Department's** Institutional Abuse Investigation Unit (IAIU), the [Division's] **Department's** contracting units, and Division [case managers] **workers,** provided that they may only secure information

about children under the Division's supervision. The facility's records shall also be open to inspection by other agencies pursuant to applicable Federal and [state] **State** laws, requirements, or court order.

(b) Each facility shall maintain on file the following administrative records until the expiration of its [regular] certificate of approval:

1. The following records shall be maintained in files located at the facility:

i.-ii. (No change.)

iii. The Life/Safety and Program Inspection/Violation reports and Complaint Investigation Summary reports from the [Bureau] **Office of Licensing,** if applicable, as well as letters of enforcement or other actions taken against the facility, if applicable, that cover the current certificate of approval period;

iv.-xv. (No change.)

xvi. A daily log book, in which an on-duty staff member shall comment on the activities and events of each day and staff member response to those events[, as specified in N.J.A.C. 3A:55-5.2];

xvii. A daily log book, a separate log book, or notation in the child's case record, in which all visits to the child shall be recorded[, as specified in N.J.A.C. 3A:55-5.2];

xviii. A copy of the staff members' work schedules and time sheets[, as specified in N.J.A.C. 3A:55-5.2];

xix.-xxxvi. (No change.)

2. (No change.)

3. For all facilities whose programs are primarily [adventure based] **adventure-based,** the following records shall be maintained on location:

i. (No change.)

ii. The Life/Safety and Program Inspection/Violation Reports and Complaint Investigation Summary Reports from the [Bureau] **Office of Licensing,** if applicable, as well as letters of enforcement or other actions taken against the facility, if applicable, that cover the current certificate of approval period;

iii.-vii. (No change.)

viii. A daily log book, in which an on-duty staff member shall comment on [the] activities and events of each day and staff member response to those events[, as specified in N.J.A.C. 3A:55-5.2];

ix.-xiii. (No change.)

(c) The facility shall maintain on file the following staff records throughout a staff member's employment and for one year after the staff member has stopped working at the facility:

1. (No change.)

2. The following staff records shall be maintained in files located at the facility:

i. (No change.)

[ii. Reasons for discontinuance of employment, if applicable, as specified in N.J.A.C. 3A:55-5.1;]

[iii.] **ii.** A full written disclosure of the director's and every staff member's background, previous work experience, and criminal convictions, if any, as specified in N.J.A.C. 3A:55-5.1(b) and 9.18;

[iv.] **iii.** Documentation that every staff member received and reviewed a copy of the facility's statement of purpose, grievance policy, children's bill of rights, fireplace policy, search and seizure policy, and information to parents statement, as specified in N.J.A.C. 3A:55-3.1(b), 3.2(b) to (d), 3.3(b), and 4.4(c)6; **and**

[v. A written annual performance evaluation, as specified in N.J.A.C. 3A:55-5.2; and]

[vi.] **iv.** (No change in text.)

(d) The facility shall maintain on file the following children's records during the child's placement at the facility and for at least [three] **four** years following the discharge of the child:

1.-13. (No change.)

(e) (No change.)

## SUBCHAPTER 4. PHYSICAL FACILITY REQUIREMENTS

### 3A:55-4.1 Physical facility initial approval requirements for all facilities located in New Jersey

(a) An applicant seeking an initial certificate of approval, as specified in N.J.A.C. 3A:55-2.1, to operate a facility located in New Jersey shall comply with all applicable provisions of the New Jersey Uniform



Construction Code, as specified in N.J.A.C. 5:23, and hereinafter referred to as the NJUCC.

1. For newly constructed buildings, for existing buildings whose construction code use group classification would change from that which it had been, or for existing buildings that require major alteration or renovation, the facility shall submit to the [Bureau] **Office of Licensing** a copy of a Certificate of Occupancy (CO) issued by the municipality in which it is located, reflecting the facility's compliance with provisions of the NJUCC, for one of the following use group classifications:

[i. R-2 (Residential) for buildings accommodating children 2 1/2 years of age and older for more than 30 calendar days and having a total occupancy of more than five and fewer than 16 children; or]

[ii.] i. I-1 (Institutional) for buildings accommodating 16 or more children over 2 1/2 years of age; [or]

[iii.] ii. I-2 (Institutional) for buildings accommodating six or more children who are under 2 1/2 years of age[.]; or

**iii. I-3 (Institutional) for secure residential child care facilities accommodating 16 or more children over 2 ½ years of age.**

2. For facilities that are planning to construct a new building, the facility shall submit to the [Bureau] **Office of Licensing**:

i. (No change.)

ii. If applicable, revised architectural or final drawings containing all required items listed in the preliminary plan review for final approval from the [Bureau] **Office of Licensing** before the facility can open.

3. For buildings constructed after the adoption of the NJUCC (1977), whose construction code use group classification is already [R-2,] I-1, [or] I-2, or I-3 and that have not had major alterations or renovations since receipt of the CO, the facility shall obtain the CO issued by the municipality in which it is located at the time the building was originally constructed or approved for use in the NJUCC's [R-2,] I-1, [or] I-2, or I-3 use group classification. The facility shall submit a copy of the building's CO to the [Bureau] **Office of Licensing**.

4. For existing buildings, whose use prior to the adoption of the NJUCC (before 1977) was and continues to be for a children's residential facility and that have not had major alterations or renovations, the facility shall obtain a Certificate of Continued Occupancy (CCO) or a letter to this effect, issued by the municipality in which it is located, reflecting the building's compliance with provisions of the municipality's construction code requirements that were in effect at the time it was originally constructed or converted for use as a facility. The facility shall submit a copy of the building's CCO or letter reflecting the building's compliance to the [Bureau] **Office of Licensing**.

5. The facility shall obtain a new CO issued by the municipality in which it is located, reflecting the building's compliance with provisions of the applicable NJUCC use group classification, and submit a copy of the new CO to the [Bureau] **Office of Licensing** whenever it takes any of the following actions:

i.-iv. (No change.)

6. Whenever a municipality grants a facility a written variation from any of the requirements of the NJUCC, the [Bureau] **Office of Licensing** may accept [such] **these** variations as meeting the applicable requirements of this [manual] **chapter**.

i. When the [Bureau] **Office of Licensing** does not accept the variation, the non-acceptance shall be based on the best interests of the residents of the facility, and shall include consideration for their health and safety.

ii. Should the facility disagree with the [Bureau] **Office of Licensing**, the facility may seek a hearing in accordance with N.J.A.C. 3A:55-2.4(a) and the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1, as implemented by the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) An applicant seeking an initial approval, as specified in N.J.A.C. 3A:55-2.1, to operate a facility shall comply with all applicable provisions of the New Jersey Uniform Fire Code, as specified in N.J.A.C. 5:18, 18A, and 18B and hereinafter referred to as the NJUFC. The facility shall obtain the building's fire safety inspection certificate issued by the municipality in which it is located, based on a fire inspection conducted within the preceding 12 months, reflecting the facility's compliance with all applicable provisions of the NJUFC. The

facility shall submit a copy of the building's fire safety inspection certificate to the [Bureau] **Office of Licensing**.

(c) An applicant seeking an initial approval, as specified in N.J.A.C. 3A:55-2.1, to operate a facility shall comply with all applicable provisions of the State Sanitary Code, as specified in N.J.A.C. 8:24. The facility shall obtain a certificate or statement of satisfactory health approval issued by the applicable municipal, county, or State health agency, based on a health inspection conducted within the preceding 12 months, certifying that the facility complies with applicable provisions of local, county, and State health codes and poses no health hazard to the children served. The facility shall submit a copy of the certificate or statement of satisfactory health approval to the [Bureau] **Office of Licensing**.

(d) An applicant seeking the renewal of a certificate of approval to continue operating a facility shall obtain and submit to the [Bureau] **Office of Licensing**, copies of:

1.-2. (No change.)

3A:55-4.3 Maintenance and sanitation requirements for all facilities

(a)-(b) (No change.)

(c) The [Bureau] **Office of Licensing** shall also require the facility to take whatever steps are necessary to correct any conditions in the facility that may endanger in any way the health, safety, and well-being of the children served.

**(d) The facility shall safeguard all keys and keep them out reach of the children.**

3A:55-4.4 Additional maintenance and sanitation requirements for all facilities located in New Jersey

(a) (No change.)

(b) The facility shall meet the following heating requirements:

1. A minimum temperature of 65 degrees Fahrenheit **and maximum temperature of 80 degrees Fahrenheit** shall be maintained in all rooms used by the children;

2.-3. (No change.)

(c) The facility shall ensure that fireplaces meet the following requirements:

1.-2. (No change.)

3. The facility shall obtain a copy of these certificates or statements of approval and submit them to the [Bureau] **Office of Licensing**;

4.-6. (No change.)

(d)-(f) (No change.)

(g) The facility shall not use lead paint on and shall remove lead paint from any interior or exterior surfaces of a building used as a facility, or on any furniture, toys or other equipment used therein, in accordance with the provisions of [the State Lead Paint Law, pursuant to] N.J.S.A. 24:14A-1 et seq., and with the provisions of the State Sanitary [code] **Code**, [as specified in] at N.J.A.C. 8:51-7. When lead paint is found in areas of a facility not specified in N.J.A.C. 8:51-7, the [Bureau] **Office of Licensing** shall determine whether the lead paint is hazardous to the health, safety, and well-being of the children served and, if considered to be hazardous, the facility shall remove the lead paint hazard.

(h)-(j) (No change.)

(k) The facility shall ensure that toilet facilities meet the following requirements:

1. (No change.)

2. A supply of hot tap water [not exceeding 110 degrees Fahrenheit] and cold running water is provided **at a minimum temperature of not less than 120 degrees Fahrenheit and at a maximum temperature not more than 125 degrees Fahrenheit at all times in accordance with anticipated needs.**

(l) A facility utilizing a kitchen facility or food preparation area shall ensure that the cooking equipment and kitchen facility are kept clean and sanitary and are operated in compliance with applicable provisions of [Chapter XII,] the State Sanitary Code[, as codified] at N.J.A.C. 8:24.

(m) The facility shall obtain prior approval from the [Bureau] **Office of Licensing** for all space used by the children.

(n)-(o) (No change.)

3A:55-4.5 Emergency evacuation instructions, medical emergencies, fire prevention, first aid, and equipment

(a)-(d) (No change.)

(e) **The facility shall prepare written emergency procedures for ensuring children's safety and immediate communication with parents, the placing agency, and the Office of Licensing in the event of an extended power outage, evacuation, lockdown, natural or civil disaster, or other emergency. The procedures shall indicate the plan for informing the parents, the placing agency, and the Office of Licensing of each child's whereabouts. The emergency procedures:**

1. Shall be maintained in the facility with the location known and accessible to all staff members;

2. Shall delineate criteria for determining whether to evacuate the facility or to shelter in place; and

3. Shall identify a prioritized list of three possible locations to evacuate to and how to determine another possible location if those locations are unavailable.

(f) The procedures shall indicate how the facility notifies the Office of Licensing, and, when appropriate, the local law enforcement agency or emergency management office of:

i. The facility's name and location;

ii. The number, ages, and type(s) of children served;

iii. The number of staff;

iv. The need for emergency transportation;

v. The location to which children and staff will be evacuated;

vi. The plan for a lockdown; and

vii. The plan for reuniting children with their parents or other approved provider or entity, when appropriate.

#### SUBCHAPTER 5. STAFF REQUIREMENTS

3A:55-5.1 General requirements for director and all staff members

(a)-(b) (No change.)

(c) Failure by the director or other staff member to comply with the requirements specified in (a) and (b) above, [and/or] or any evidence demonstrating unfitness or unsuitability to fulfill the responsibilities and duties of his or her position or to serve or deal with children in an appropriate manner, shall constitute grounds for one or more of the following actions:

1.-3. (No change.)

4. Denial, refusal to renew, suspension, or revocation of the facility's certificate of approval by the [Bureau] **Office of Licensing**.

(d) The facility shall disclose to the [Bureau] **Office of Licensing**, in writing, information about and circumstances surrounding any previous denial, suspension, revocation, or refusal to renew a certificate of approval or a license to operate a facility either by the [Bureau] **Office of Licensing** or by the licensing agency of another state. Evidence of a previous denial, suspension, revocation, or refusal to renew a certificate of approval or license, shall not in and of itself result in an automatic disqualification of the prospective facility to secure a certificate of approval for another or the same facility, but shall constitute grounds for the [Bureau] **Office of Licensing** to investigate the circumstances that led to the original negative action and make a determination as to whether to reject or process the new application for a certificate of approval.

(e) Requirements to prevent child abuse or neglect are as follows:

1. The director or any staff member shall verbally notify the [Division's Office of Child Abuse Control or appropriate District Office] **Department's toll-free hotline, 1-877-NJ-ABUSE (652-2873)**, immediately whenever there is reasonable cause to believe that a child has been subjected to **child** abuse or neglect by a staff member[,] or any other person [other than the child's parent or family member], pursuant to [the State Child Abuse and Neglect Law] [(] N.J.S.A. 9:6-8.9, 8.10, 8.13, and 8.14 [)]. This provision shall also apply to facilities located outside of New Jersey, notwithstanding the child abuse and neglect provisions of the state in which the facility is located;

2. The facility shall report any suspected abuse or neglect of the child by his or her parents or other family members to the Division [case manager/supervisor assigned to the family];

[3. When reporting to the Division as specified in (g)1 above, the facility shall also notify the parent(s) of the incident(s) reported which might indicate possible abuse or neglect involving the child. Such notification shall be made on the same day on which the incident(s) occurred. The facility shall maintain on file a record of such incident(s) and documentation that the parent(s) have been informed of them;]

3. **In addition to the reporting requirements specified in (e)1 above, the facility shall notify the Division worker, if applicable, and parents of any unusual incidents that occurred at the facility and that might indicate possible child abuse or neglect involving the child. Notifications shall be made on the same day that the incident occurred. Incidents may include, but are not limited to: acts of aggression, violent or destructive behavior, suicidal threats or behavior, homicidal threats, inappropriate sexual behavior, running away, withdrawal or passivity, drug or alcohol abuse, or significant changes in the child's behavior or habits. The facility shall maintain on file a record of incidents and documentation that the parents and Division worker, if applicable, have been informed of those incidents.**

4. The [Division] **Department**, during the course of investigating an allegation of child abuse and neglect, may determine that immediate, corrective action is necessary to protect the children whenever:

i. The director or staff member has been found by the [Division] **Department's** Institutional Abuse Investigation Unit (IAIU) to pose a risk of harm to children;

ii.-iii. (No change.)

5. Whenever the IAIU makes [such] a determination, the governing board or director shall carry out the [Division's] **Department's** recommendation for immediate remedial action and long term corrective action. [Such remedial] **Remedial** action may include, but not be limited to:

i.-ii. (No change.)

6. [Such] A suspension, removal, or reassignment, as specified in (e)5 above, shall remain in effect until the results of the [Division's] **Department's** investigation have been determined, and a final decision in the matter has been rendered by the [Division] **Department**; and

7. If an allegation of child abuse or neglect is substantiated against the director or a staff member, the facility shall immediately terminate the individual's employment at the facility. If an allegation of child abuse or neglect is substantiated against the director, the [Division] **Office of Licensing** shall deny, suspend, revoke, or refuse to renew the certificate of approval, as applicable. The facility may appeal the denial, suspension, revocation, or refusal to renew **a certificate** to the [Division] **Office of Licensing**, as specified in N.J.A.C. 3A:55-2.4.

(f) (No change.)

3A:55-5.2 Staff qualifications

(a) (No change.)

(b) The full-time administrator or director of the facility shall:

1. (No change.)

2. Have one of the following qualifications:

i.-ii. (No change.)

iii. For [publicly operated] **publicly-operated** facilities, meet the requirements of the [State Department of Personnel] **Civil Service Commission** for the position, if applicable;

iv.-v. (No change.)

3. Be responsible for implementing the overall planning, operation, and management of the facility, including the facility's **oversight and supervision of full-time, part-time, or consultant physicians, advanced practice nurses**, recreational, and food programs;

4.-11. (No change.)

(c) The social services/clinical director of the facility shall:

1. (No change.)

2. Have one of the following qualifications:

i.-ii. (No change.)

iii. For [publicly operated] **publicly-operated** facilities, meet the requirements of the [State Department of Personnel] **Civil Service Commission** for the position, if applicable;

iv.-v. (No change.)

**3. Ensure that adequate clinical and direct care staff coverage is enhanced when clinically indicated to accommodate changes in the population;**

Recodify existing 3.-7. as **4.-8.** (No change in text.)

(d) Each social worker or staff member who provides social services shall:

1.-2. (No change.)

3. Have one of the following qualifications:

i. A bachelor's degree in social work, psychology, or related field from an accredited college or university and one year of professional experience in the human services field, [but] **except that any person who does not meet the qualifications in (c)2iv and v above and provides services as specified in (d)2 above shall:**

(1)-(4) (No change.)

ii. A master's degree from an accredited graduate school in social work, psychology, or a related field, [but] **except that any person who does not meet the qualifications in (c)2iv and v above and provides services as specified in (d)2 above shall:**

(1)-(3) (No change.)

iii. Meet the requirements of the [State Department of Personnel] **Civil Service Commission** for the position, if applicable.

**4. Have a minimum of two years of experience working with children who have a history of sexual offenses, physically assaultive behavior, fire setting, or complex behavioral or mental health needs, if providing one or more of the following services to children:**

**i. Providing individual therapy;**

**ii. Implementing group therapy sessions specific to the problems and treatment needs of the children; or**

**iii. Implementing treatment modalities and plans specific to the problems and treatment needs of the children.**

(e) The child care director of the facility shall:

1. (No change.)

2. Have one of the following qualifications:

i.-ii. (No change.)

iii. For publicly-operated facilities, meet the requirements of the [State Department of Personnel] **Civil Service Commission** for the position, if applicable;

**3. Have a minimum of three years of experience working with children who have a history of sexual offenses, physically assaultive behavior, fire setting, complex behavioral or mental health needs, if providing services to children, including one or more of the following:**

**i. Ensuring that the minimum staff-to-child ratios are maintained;**

**ii. Coordinating the group therapy sessions for children who have a history of sexual offenses, physically assaultive behavior, complex behavioral or mental health needs, or fire setting with the social services/clinical director; or**

**iii. Ensuring that child care staff implement the treatment modalities and plans specific to the problems and treatment needs of the children in conjunction with the social services/clinical coordinator.**

Recodify existing 3.-4. as **4.-5.** (No change in text.)

(f) Each child care staff member shall:

1.-2. (No change.)

3. Inform the social service staff members or director of any incidents that may impact on the child's treatment planning, as specified in N.J.A.C. 3A:55-6.1 and 6.2; [and]

4. Have one of the following qualifications:

i.-iii. (No change.)

iv. Meet the requirements of the [State Department of Personnel] **Civil Service Commission** for the position, if applicable[.]; **and**

**5. Have a minimum of one year of experience working with children who have a history of sexual offenses, physically assaultive behavior, complex behavioral or mental health needs, or fire setting, if providing services to children, including one or more of the following:**

**i. Providing supervision of children;**

**ii. Assisting the social services/clinical director or social worker with group therapy sessions specific to the problems and treatment needs of the children; or**

**iii. Implementing treatment modalities and plans specific to the problems and treatment needs of the children under the supervision of the social service/clinical director or social service staff.**

(g) For those persons who do not meet the one-year experience requirement for a child care staff member, specified in (f)5 above, **the facility shall provide a pre-service training curriculum prior to their employment at the facility. The pre-service training shall include topics related to the treatment and supervision of children with complex behavioral or mental health needs.**

(h) Facilities may hire persons who do not meet the qualifications specified in (e) above, but who offer a background or life experience that demonstrate characteristics, skills, and attributes that would enable them to work with children in a positive manner. The facility shall develop and maintain on file a policy that delineates the criteria for hiring staff members who do not meet the qualifications specified in (e) above. The criteria shall include, but not be limited to, the following:

1. The person shall have life experiences that deal with raising a child, providing resource care, participating in volunteer activities with a child, or adopting a child;

2. The person shall exhibit characteristics, skills, and attributes that would enable him or her to work effectively and sensitively with emotionally disturbed or handicapped children in a group setting; and

3. The person, after he or she is hired, shall work together with an experienced staff member for an initial probationary period of at least six months unless terminated for cause prior to completing the six-month probationary period. After this initial six month period has ended, the facility shall review the person's work performance, document his or her ability to continue work without being supervised by an experienced staff member and may either:

**i. Appoint the probationary staff member to fill the position as a child care staff member;**

**ii. Extend the initial six-month period to further evaluate the performance of the probationary staff member and continue to have the probationary staff member supervised by an experienced staff member; or**

**iii. Terminate the probationary staff member after the initial six-month period or any extension of the initial six-month period for failing to perform the job duties and responsibilities of the position.**

[(g)] (i) (No change in text.)

[(h)] (j) Education staff of the facility including administrative, supervisory, and teaching staff shall comply with the staff qualifications, certifications, licenses, and experience requirements of the New Jersey Department of Education or the equivalent agency in the state where the facility is located.

[(i)] (k) Each physician, **physician assistant, advanced practice nurse, nurse, dentist, psychologist, speech therapist, physical therapist, and occupational therapist** employed by the facility or providing services on a contracted basis to the facility shall:

1.-2. (No change.)

[(j)] (l) Each staff member designated to direct and be responsible for providing food services shall:

1.-4. (No change.)

5. Develop a plan approved by a dietician or dietary consultant who meets the qualifications specified in [(j)1] (l)1 through 4 above.

3A:55-5.3 Staff to child ratios

(a) Each residential child care facility shall meet the following staff to child ratios:

1.-2. (No change.)

3. There shall be at least one social services worker for every [20] **15 children in facilities that provide services to children with emotional or behavioral problems, drug and alcohol problems, or physical disabilities, and in adventure programs that serve children with emotional or behavioral problems;**

4. There shall be at least one full-time nurse at a facility that serves at least 35 children. A facility that serves fewer than 35 children shall have at least [access to] a part-time nurse **who provides the equivalent of one hour of services per child each week;**

5. (No change.)

6. During sleeping hours, there shall be at least one **awake** child care staff member in each living unit in the facility and at least one additional staff member awake and on-duty for each 50 children or fraction thereof, in the facility; and

7. (No change.)

(b) (No change.)

3A:55-5.4 Staff training and development

(a) (No change.)

(b) (No change.)

(c) The facility shall document in each staff member's record that all social service and child care staff members, including full and part-time staff members, receive a minimum of a total of [12] **14** hours of training each year, in the following areas:

1.-2. (No change.)

3. Human sexuality and AIDS; [and]

4. Suicide prevention[.];

**5. Gang activity awareness;**

**6. Bullying activity awareness;**

**7. Human trafficking;**

**8. Trauma and adolescent brain development; and**

**9. Reduction and elimination of restraints.**

(d) (No change.)

3A:55-5.6 Criminal History Record Information background checks

(a) (No change.)

(b) If the director refuses to consent to or cooperate in a CHRI background check, the [Division] **Office of Licensing** shall deny, suspend, revoke, or refuse to renew the certificate, as applicable. The facility may appeal the denial, suspension, revocation, or refusal to renew **the certificate**, as specified in N.J.A.C. 3A:55-2.4.

(c) (No change.)

(d) If any person identified in (a) above has a record of criminal conviction, the Department [of Human Services] shall review the record with respect to the type and date of the criminal offense and make a determination as to the suitability of the person to receive a certificate or to administer or work at the facility.

(e)-(l) (No change.)

3A:55-5.7 Child Abuse Record Information background checks

(a) As a condition of securing and maintaining a certificate, the facility shall provide written consent to the [Division] **Department** from the director and each staff member for a Child Abuse Record Information (CARI) background check to be conducted.

(b) If the director refuses to consent to or cooperate in a CARI background check, the [Division] **Office of Licensing** shall deny, suspend, revoke, or refuse to renew the certificate, as applicable. The facility may appeal the denial, suspension, revocation, or refusal to renew **a certificate**, as specified in N.J.A.C. 3A:55-2.4.

(c)-(d) (No change.)

(e) If the [Division] **Department** determines that an allegation of child abuse or neglect has been substantiated against an individual specified in (a) above, the facility shall immediately terminate the individual's employment at the facility.

(f) If the [Division] **Department** determines that an allegation of child abuse or neglect has been substantiated against a director, the [Division] **Office of Licensing** shall deny, suspend, revoke, or refuse to renew the certificate of approval, as applicable.

1. (No change.)

2. If the incident was substantiated prior to June 29, 1995, the [Division] **Department** shall notify the [individual] **director** in writing that the individual may request a hearing to contest the substantiation.

(g) If the [Division] **Department** determines that an allegation of child abuse or neglect has been substantiated against a staff member, the facility shall notify the staff member in writing that the termination of employment is based on a substantiated allegation of child abuse or

neglect. If the incident was substantiated prior to June 29, 1995, the facility shall notify the staff member in writing that the staff member may request a hearing to contest the substantiation.

SUBCHAPTER 6. PROGRAM REQUIREMENTS

3A:55-6.1 Treatment plan for children in residential child care facilities

(a) (No change.)

(b) The facility shall form a treatment team that is responsible for the development of a treatment plan for each child. The treatment team shall consist of each of the following:

1.-4. (No change.)

5. The [Division's case manager] **placing agency's representative;** and

6. (No change.)

(c) The facility shall document in the child's record that the [Division's case manager or other] placing [agency] **agency's representative**, the child's therapist, **the** parents [or legal guardian and], the child's responsible [and/or current] school district **staff, and physician or nurse**, if appropriate, were invited to participate as members of the treatment team and assist in the development of the treatment plan and all subsequent revisions.

[(d) The facility shall develop the initial treatment plan within 30 calendar days following a child's admission, commence with the treatment plan for three months, then review or revise the treatment plan at least every six months thereafter.]

**(d) The treatment team shall:**

**1. Develop a treatment plan for each child within 30 calendar days following his or her admission;**

**2. Review and revise it as needed within three months after the 30-day treatment plan; and**

**3. Review and revise it as needed at least every six months thereafter.**

(e) (No change.)

**(f) The treatment plan for children who have a history of complex behavioral or mental health needs shall include the following information:**

**1. The name of the child;**

**2. The date of the child's admission;**

**3. The date when the plan is developed or revised;**

**4. The names and titles of all persons either having input or attending the development or review meeting;**

**5. The child's social, familial, emotional, medical, behavioral, and academic strengths and weaknesses;**

**6. A statement of who can and cannot visit the child and the reasons, including references to any court orders, if applicable, and any plan for supervised visits;**

**7. Specific treatment goals and measurable objectives that address the child's inappropriate sexual behavior, physically assaultive behavior, fire setting behavior, complex emotional behavior and mental health needs, and projected time frames for completing each goal and objective. The treatment goals shall also include:**

**i. Individual therapy sessions for the children as indicated by the clinician(s); and**

**ii. Group therapy sessions for the children as indicated by the clinician(s);**

**8. In addition to (f)7 above, specific treatment goals and measurable objectives in each program area and projected time frames for completing each treatment goal and objective;**

**9. Persons responsible for the implementation of techniques to be used to achieve each treatment goal and objective;**

**10. The techniques to be used to achieve each treatment goal and objective;**

**11. Criteria to be used to determine whether each treatment goal is achieved;**

**12. A notation of progress made from the previous plan;**

**13. Documentation of efforts to achieve a timely discharge, including, but not limited to, services needed by parents or other persons to whom the child will be discharged;**

14. For children who have a history of sexual offenses, documentation that the child was registered in accordance with appropriate community notification laws, if applicable;

15. For children who have a history of sexual offenses, physically assaultive behavior, or fire setting, documentation of the involvement of the child's probation or parole officer, if appropriate; and

16. For children who are 14 years of age or older, documentation of how the child is being prepared for self-sufficiency, including documentation of instruction in:

- i. Food preparation;
- ii. Budgeting and money management; and
- iii. Vocational planning and employment search efforts.

[(f)] (g) The facility shall send [to] the [Division's case manager or other] placing agency a copy of the treatment plan and any revisions to it within 30 calendar days after the treatment planning meeting and retain a copy of the plan in the child's record for at least [three] **four** years after the child's discharge.

[(g)] (h) (No change in text.)

#### 3A:55-6.2 Discharge planning

(a) For discharges that can be anticipated, the facility shall develop a plan with the [Division's case manager or other] placing agency staff at least 30 days before the child's discharge. The plan shall be sent **at least 30 days prior to the child's discharge** to the [Division's case manager or other] placing agency staff and shall specify the following information:

1.-5. (No change.)

(b) For discharges that were not anticipated at least 30 calendar days ahead of time, the facility shall send the [Division's case manager or other] placing agency a written plan at least 10 working days prior to the child's discharge. This plan shall specify the following information:

1.-5. (No change.)

(c) For emergency discharges that result in the immediate placement of the child in a facility such as a detention center, hospital, psychiatric facility, or any other placement outside the facility, the facility shall notify the [Division's case manager or other] placing agency by the next working day by telephone. The facility shall send a written discharge plan within 15 days after the child's discharge. This plan shall specify the information outlined in (b)1 through 5 above.

#### 3A:55-6.5 Money and allowance

(a) (No change.)

(b) The facility shall not require a child to assume responsibility for expenses for his or her care and treatment, **laundry, or hygiene supplies**, except for amounts needed to pay for damage done to the facility by the child.

1.-3. (No change.)

4. The facility may offer the child the option of performing additional chores in lieu of restitution payments, **as long as these chores comply with the provisions specified at N.J.A.C. 3A:55-6.4(b)**.

#### 3A:55-6.6 Visitation and communication

(a) (No change.)

(b) The facility shall develop a visiting policy and explain the visiting policy to the child and parents at intake. The visiting policy shall specify:

1.-3. (No change.)

4. That the child may visit his or her [Division case manager or other] placing agency worker upon reasonable request and that these visits shall not be unreasonably denied; and

5. (No change.)

(c) The facility shall meet the following requirements for the use of the telephone by children:

1. The facility shall permit reasonable access to a telephone by the child for telephone conversations with [the Division's case managers] **each Division worker** or other professional [persons] **person** or [agencies] **agency**.

i.-ii. (No change.)

2.-5. (No change.)

(d) (No change.)

#### 3A:55-6.7 Education

(a)-(f) (No change.)

(g) Requirements for facilities using off-grounds education programs are as follows:

1.-2. (No change.)

**3. The facility staff shall notify the principal or designee when a child attending a public school in New Jersey will be absent, pursuant to N.J.S.A. 18A:36-25.6.**

(h)-(j) (No change.)

#### 3A:55-6.11 Food and nutrition for children

(a) (No change.)

(b) The facility shall ensure that the daily diet for each child includes a balance of foods from the [four] **United States Department of Agriculture's** basic food groups.

1. (No change.)

2. The facility shall make available, as necessary, an alternate choice of food for each meal served for children on special diets, **with documented food allergies**, or [children] who, because of religious beliefs, cannot eat particular foods.

3. (No change.)

#### 3A:55-6.13 Restrictive behavior management practices

(a) (No change.)

(b) The facility shall:

1. Obtain written approval from the [Bureau] **Office of Licensing** for any restrictive behavior management practice that the facility plans to utilize prior to its implementation with children; and

2. (No change.)

(c) Prior to the child's admission, the facility shall:

1. Explain to the parents, the child, and the [Division's case manager or other] placing agency any restrictive behavior management practice that is used, the circumstances under which it will be employed, and the possible risks involved; and

2. (No change.)

(d) (No change.)

(e) Whenever the parents refuse to consent to a restrictive behavior management practice, revoke their consent for the practice, or cannot be located to give consent, the facility shall:

1. (No change.)

2. Request that the [Division's case manager and the] placing agency obtain the necessary consent, either through administrative action pursuant to an agreement between the parent, the Division and the other placing agency or through legal action, if necessary to protect the best interests of the child.

(f) (No change.)

(g) At least 10 working days before each staffing or treatment planning meeting, the facility shall send a letter to the child's parents and to the [Division's case manager and other] placing agency, which shall:

1.-3. (No change.)

(h)-(j) (No change.)

**(k) A facility shall not utilize any type of mechanical restraint on or after January 1, 2020.**

[(k)] (l) Facilities that **choose to** utilize mechanical restraint **until December 31, 2019**, in addition to taking the precautions listed for physical restraint in (i)1 through 7 above, shall:

1.-7. (No change.)

8. Ensure that a staff member(s) remains at arm's length of the child and maintains visual contact at all times during the restraint or maintains visual contact utilizing [a Bureau-approved] **an Office of Licensing-approved** television monitoring system;

9.-14. (No change.)

15. Prohibit the use of the following types of mechanical restraints:

i.-ix. (No change.)

x. [Four and five point] **Four- or five-point** restraint.

[(l)] (m) A facility that is accredited by the Joint Commission on Accreditation of Health Care Organizations (JCAHO) as a psychiatric hospital or facility and has a current contract with the [Division] **Department** may use [four and five point] **four- or five-point** restraints with a child. When the facility uses [four or five point] **four- or five-**

**point** restraints, the facility shall comply with all the requirements for physical and mechanical restraint, with the exception of [(k)](l)15x above.

[(m)] (n) A facility utilizing a behavior management room shall:  
1.-10. (No change.)

[(n) Facilities that are operated by the Division shall adhere to all the restrictive behavior management practices policies that are developed, implemented and promulgated by the Department and the Division.]

### 3A:55-6.14 Discipline and control

(a)-(c) (No change.)

(d) The facility shall prohibit the following types of punishment from being used on a child:

1.-2. (No change.)

3. Subjection to verbal abuse, ridicule, **repetitious writing**, humiliation, or other forms of degradation;

4. Deprivation of meals, **snacks**, sleep, mail, clothing appropriate to the season or time of day, or verbal communication;

5.-10. (No change.)

### 3A:55-6.15 Search and seizure of weapons and contraband

(a)-(b) (No change.)

(c) The facility shall permit frisk searches (surface searches of the outer clothing) of a child only when there is reasonable suspicion that the child is in possession of a weapon.

1.-4. (No change.)

5. The facility may choose to use an electronic “wand” or other similar noncontact device on a child who is suspected of possessing a weapon.

i. The facility shall obtain written approval from the [Bureau] **Office of Licensing** for the use of an electronic “wand” or other noncontact device prior to its use with children;

ii.-iv. (No change.)

(d)-(h) (No change.)

### 3A:55-6.17 Aversive conditioning procedures

A facility that utilizes aversive conditioning procedures with developmentally disabled children shall first obtain written approval from the [Bureau] **Office of Licensing** prior to their implementation with children.

## SUBCHAPTER 7. HEALTH REQUIREMENTS

### 3A:55-7.1 Comprehensive health plan for children

(a) The facility shall prepare and implement a comprehensive health plan to ensure that each child’s medical, dental, **mental health**, and other health needs are met adequately and promptly.

1.-2. (No change.)

### 3A:55-7.2 Health care and medical treatment for children

**(a) The facility shall identify a physician or health care organization to assume responsibility for the routine, emergency, and follow-up medical care of each child.**

[(a)] (b) Within 72 hours after admission, the facility shall ensure that each child receives a medical examination, as defined in [(d)] (e) below, unless the child had received [such] a medical examination within 30 calendar days prior to his or her placement. **Vision and hearing screenings are acceptable for one year.**

Recodify existing (b)-(e) as (c)-(f) (No change in text.)

[(f)] (g) The facility shall ensure that children between two and six years of age receive developmental evaluations by a physician, nurse, or other appropriate health official.

### 3A:55-7.3 General medical practices

(a) (No change.)

(b) When a serious accident or illness occurs to a child, the facility shall take the necessary emergency action and notify the child’s parents and the [Division’s case manager or other] placing agency immediately. The facility shall document these incidents in the child’s record.

(c) (No change.)

### 3A:55-7.4 Medication other than psychotropic medication

(a)-(e) (No change.)

(f) The facility shall ensure that the following procedures for storage of medication are followed:

1. (No change.)

2. All outdated stocks and prescriptions no longer in use shall be disposed of safely as follows:

i. (No change.)

ii. Pills, tablets, and capsules shall be [flushed down the toilet before the bottle or packet is disposed of in the trash] **disposed of pursuant to law;**

3.-4. (No change.)

(g) (No change.)

### 3A:55-7.5 Psychotropic medication

(a)-(d) (No change.)

(e) Before administering psychotropic medication, the facility shall obtain written informed consent from the child’s parent(s) or legal guardian, and from all children 14 years of age and older consistent with their age and level of functioning unless the facility documents that the child lacks the capacity for informed consent. In cases where both a parent and legal guardian exist, the facility shall seek written informed consent from the legal guardian.

1.-4. (No change.)

5. If the facility cannot obtain written informed consent or verbal informed consent, the facility shall use certified mail, return receipt requested, and shall send the request to the parent’s or legal guardian’s last known address at least 10 calendar days before the proposed date for the commencement of treatment. The written notice shall specify:

i. (No change.)

ii. That a failure to respond by the proposed date for the beginning of treatment shall empower the director, after consultation with the [Division’s case manager or other] placing agency, to grant consent for the medication.

6. (No change.)

(f)-(g) (No change.)

(h) The facility shall ensure that all children receiving psychotropic medication are monitored in the following manner:

1.-2. (No change.)

3. The facility shall ensure that:

i.-ii. (No change.)

iii. The facility informs the child, parents, legal guardian, the [Division’s case manager or other] placing agency in writing about the outcome of a negative review.

(i)-(j) (No change.)

### 3A:55-7.7 Health requirements for staff

(a) (No change.)

(b) Prior to or upon beginning work or having contact with the children for the equivalent of at least eight hours a week at the facility, each staff member shall take a Mantoux tuberculin skin test with five TU (tuberculin units) of PPD tuberculin. If the staff member has had a previous positive Mantoux tuberculin skin test the staff member shall have a chest x-ray taken in lieu of the Mantoux tuberculin skin test. The staff member shall submit to the facility written documentation of the results of the test or x-ray.

1. If the Mantoux tuberculin skin test result is insignificant (zero to nine millimeters (mm) of induration), no further testing shall be required. The [Bureau] **Office of Licensing** or facility may, at any time, require a staff member to retake the Mantoux tuberculin skin test, if there is a reason to believe or suspect that the staff member may have contracted tuberculosis or if the State Department of Health recommends retesting.

2.-3. (No change.)

(c)-(d) (No change.)

## SUBCHAPTER 8. TRANSPORTATION REQUIREMENTS

### 3A:55-8.1 General requirements

(a) (No change.)

(b) Each facility as specified in (a) above shall also comply with applicable provisions of the New Jersey [Division of] Motor Vehicle[s] **Commission’s laws and rules**, [pursuant to] at N.J.S.A. 39:1-1 et seq.

and [rules promulgated thereunder, as specified in N.J.A.C.] **Title 13 of the New Jersey Administrative Code.**

(c) The facility may authorize staff members to utilize their own private passenger vehicles to transport children from the facility to and from scheduled field trips or to transport children from the facility to a hospital, clinic, or office for medical treatment. However, staff members may be authorized to do so only if:

1. (No change.)

2. The driver possesses a valid automobile driver's license issued by the New Jersey [Division of Motor Vehicles] **Motor Vehicle Commission**, hereinafter referred to as the [DMV] **MVC**, or a valid automobile driver's license issued by an approved out-of-State motor vehicle agency for the state in which the driver is a legal resident;

3. The vehicle has a valid motor vehicle inspection sticker issued by the [DMV] **MVC** or by an approved out-of-State motor vehicle agency for the state in which the [car] **vehicle** is legally registered;

4.-6. (No change.)

(d) (No change.)

(e) The facility shall ensure that the following safety practices are followed:

1. (No change.)

[2. All passengers who are over one and one-half years of age are secured in a car seat or an operable seat belt while the vehicle is in motion;

3. All passengers who are one and one-half years of age or younger are secured in car seats (child passenger restraint systems) that meet Federal motor vehicle safety standards in accordance with provisions of the New Jersey Division of Motor Vehicles law, pursuant to N.J.S.A. 39:3-76.2a;]

**2. Child passenger restraint systems and booster seats are utilized as required by N.J.S.A. 39:3-76.2a;**

**3. Seat belts are used as required by N.J.S.A. 39:3-76.2e et seq.;**

4.-5. (No change.)

(f)-(h) (No change.)

(i) If the facility utilizes a Type I School Bus, Type II School Bus, or a Type II School Vehicle, the facility shall:

1. Meet all applicable rules of the [DMV] **MVC**, New Jersey Department of Education, and New Jersey Department of [Human Services] **Children and Families**; and

2. Ensure that the drivers of [such] **the** vehicles possess a valid [Class B license for the New Jersey Type I School Bus, or possess a valid Class C license for the New Jersey Type II School Bus] **Commercial Driver License (CDL) in at least Class B or Class C, with passenger endorsement, as required by the MVC for the gross vehicle weight rating (GVWR) of the vehicle**, or an out-of-State equivalent license, as approved by the [DMV] **MVC**.

(j) (No change.)

[3A:55-8.2 Vehicle insurance requirements

(a) The facility shall maintain vehicle liability insurance for bodily injury or death in amounts established in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the provisions of N.J.A.C. 1:30 by the Department of Human Services per accident for every vehicle that is:

1. Owned or leased by the facility; and

2. Utilized to transport children residing in the facility.

(b) If the facility contracts for transportation services, the facility shall ensure that the contracted company maintains insurance coverage as identified in (a) above.]

3A:55-[8.3] **8.2** (No change in text.)

3A:55-[8.4] **8.3** Record requirements

[(a) The facility shall ensure that each person who is authorized to transport children possesses a valid driver's license.]

[(b)] (a) The facility shall maintain on file the following:

1. A [photostatic] copy of the registration of each vehicle used to transport children;

2.-3. (No change.)

[(c)] (b) (No change in text.)

[(d)] (c) The facility shall develop and maintain on file a record of all trips **other than routine school-related, work-related, or recreation trips** where the facility's vehicles are used for transporting children that documents:

1. The date and time [each staff member] **of the trip and staff member(s) who drove;**

[2. Incidents of the day; and]

[3.] **2. Names of the children who attended the trip[.]; and**

**3. Any unusual incidents that occurred on the trip.**

## SUBCHAPTER 9. ADVENTURE ACTIVITIES

### 3A:55-9.1 General requirements

(a)-(m) (No change.)

(n) For all water and outdoor trips away from the grounds or campsites, the facility shall [obtain and maintain on file in the shift log or at the administrative office the information from a weather report issued by the National Weather Service no earlier than six hours before the trip and] modify or cancel the activity if there is a threat of a severe storm or similar environmental hazard.

[(o) The facility shall also obtain and maintain on file in the shift log or at the administrative office the information from a report from the park service or other appropriate state or local agency that indicates that there is no life-threatening environmental hazard, such as fires, polluted water, threat of flash floods or avalanches.]

[(p)] (o) The facility shall not **allow children to engage in water activities** where the water is known to have hazardous wastes, such as waters that have been contaminated by toxins, sewage, or chemicals.

[(q)] (p) The facility shall ensure that all water from streams, ponds, lakes, and rivers that is used for drinking, food preparation, and dishwashing is first boiled, filtered, or purified with iodine or tablets specifically designed to purify water.

[(r)] (q) (No change in text.)

### 3A:55-9.2 Plans for emergency evacuation and search and rescue

(a)-(d) (No change.)

(e) For adventure activities occurring outside the facility's grounds, the facility shall [give] **ensure that** at least one staff member **has** money or credit cards [to handle emergencies] **sufficient to cover reasonably anticipated emergency expenses.**

### 3A:55-9.3 Reporting requirements

(a) The facility shall report all fatalities and all accidents requiring hospitalization or medical care by a physician to the [Bureau] **Office of Licensing** [as soon as staff have access to a telephone,] as specified in N.J.A.C. 3A:55-3.7(b).

(b) The facility shall provide written notification to the **Office of Licensing and the child's parents** and maintain on file reports of all incidents and accidents requiring hospitalization or medical care by a physician, and incidents where an accident or fatality was avoided ("near miss"), within five working days of the incident.

1.-2. (No change.)

[3. The facility shall send a written report within 10 working days of the incident or accident to the Bureau and to the child's parents about what precautions have been taken to prevent a similar kind of incident or accident from occurring in the future.]

(c) The facility shall submit a written description to the [Bureau] **Office of Licensing** and permit an on-site inspection prior to its implementation of any of the following high risk adventure activities:

1.-3. (No change.)

[(d) The facility shall submit a written description to the Bureau prior to the implementation of the following medium risk adventure activities:

1. Canoeing, kayaking and tubing;

2. Water skiing;

3. Snow skiing; and

4. Boating and sailing.]

[(e)] (d) The written descriptions required in (c) [and (d)] above shall include, but not be limited to, the following information:

1.-3. (No change.)

### 3A:55-9.4 Biking

(a)-(b) (No change.)

(c) **The facility may permit a child to participate in mountain biking when the following conditions have been met:**

1. **The child has been provided with a mountain bike that has been designed and manufactured for riding on trails;**
2. **The child has been provided with a helmet designed for mountain biking, knee pads, gloves, protective goggles or eye wear, and elbow pads;**
3. **A staff member, volunteer, or contract provider who is experienced in mountain biking accompanies the child; and**
4. **The child has demonstrated an ability to participate in mountain bike riding.**

Recodify existing (c)-(f) as (d)-(g) (No change in text.)

3A:55-9.13 Swimming

(a) A facility using **on-grounds or off-grounds** swimming facilities that are not supervised public recreational bathing facilities shall ensure that at least one staff member has a valid lifesaving or lifeguarding certificate issued from an organization that is recognized by the New Jersey State Department of Health or out-of-State health department or other appropriate authority when up to eight children are present, and two staff members have a valid lifesaving or lifeguarding certificate when nine or more children are present.

- 1.-2. (No change.)
- (b)-(d) (No change.)

3A:55-9.20 Special requirements for communication and visiting

(a) (No change.)  
 (b) The facility shall permit family members[,] **and** the [Division's case manager or other] placing agency to visit the child where he or she is currently living and shall provide a comfortable inside space when the weather prohibits outside visitation.

1. The facility shall provide privacy for all visits between the child and the [Division's case manager or other] placing agency.
2. (No change.)

(c) The facility shall develop and maintain on file, in the administrative office, plans and procedures to ensure that each child:

1. Can receive an emergency message from his or her family and from the [Division's case manager or other] placing agency within 24 hours of the family member or the [Division's case manager or other] placing agency contacting the facility's administrative office;
2. Is given necessary postage to send mail to family members[,] **and** the [Division's case manager or other] placing agency; and
3. Can receive mail from his or her family and the [Division's case manager or other] placing agency on a weekly basis.

(d) The facility shall permit each child to make private telephone calls to the [Division's case manager or other] placing agency, upon reasonable request.

- (e)-(g) (No change.)

SUBCHAPTER 10. SERVICES FOR PREGNANT AND PARENTING ADOLESCENTS

3A:55-10.2 Staff and staff to child ratio requirements

- (a)-(b) (No change.)
- (c) Facilities that serve three or more pregnant or parenting adolescents shall have at least one staff person who is certified in first aid, **infant cardiopulmonary resuscitation (CPR)**, and CPR, as defined by a recognized health organization (such as the American Red Cross) in the facility during periods of operation.
- (d)-(e) (No change.)

3A:55-10.3 Staff development and training

(a) Upon employment, the facility shall document in each staff member's personnel record that each staff member received instruction in **all the areas specified in N.J.A.C. 3A:55-5.4(a)1 through 9 and the following:**

- [1. The facility's statement of purpose; and
2. Protocols for administering medication.]
1. **Recognizing and reporting child abuse and neglect;**
2. **Infant, toddler, and adolescent growth and development; and**
3. **Infant feeding and nutrition.**

- (b)-(d) (No change.)

3A:55-10.4 Case management requirements

- (a)-(b) (No change.)
- (c) The facility shall document in the adolescent's and infant's record that the [Division's case manager or other] placing agency's representative, the adolescent's therapist, parents, or legal guardian, and the responsible [and/or] or current school district, if applicable, were invited to participate as members of the case management planning team and in all subsequent revisions of the plan.
- (d)-(e) (No change.)
- (f) The facility shall send to the [Division's case manager or other] placing agency a copy of the case management plan and any revisions to it within 30 calendar days after the planning meeting and retain a copy of the correspondence in the adolescent's and infant's record.
- (g)-(h) (No change.)

(i) When an adolescent mother expresses interest in surrendering her infant for adoption, the facility shall:

1. (No change.)
2. Notify the [Division's case manager or other] placing agency;
- 3.-4. (No change.)

3A:55-10.5 Discharge planning requirements

(a) For discharges that can be anticipated at least 30 calendar days ahead of time, the facility shall develop a plan with the [Division's case manager or other] placing agency at least 30 calendar days before the adolescent's or infant's discharge. The plan shall specify the following information:

- 1.-6. (No change.)
- (b) For discharges that were not anticipated at least 30 calendar days ahead of time, the facility shall send the [Division's case manager or other] placing agency a written plan at least 10 working days prior to the adolescent's or the infant's discharge. This plan shall specify the following information:

- 1.-6. (No change.)
- (c) For emergency discharges that result in the immediate placement of the adolescent or infant in a facility such as a detention center, hospital, psychiatric facility, or any other placement outside the facility, the facility shall notify the [Division's case manager or other] placing agency by the next working day by telephone. The facility shall send a written discharge plan within 15 days after the adolescent's or infant's discharge. This plan shall specify the information outlined in (b)1 through 6 above.

3A:55-10.6 Services regarding paternal involvement

- (a) (No change.)
- (b) The facility shall discuss the topics specified in (a) above in individual or group meetings with adolescent mothers **prior to discharge** and assist the adolescent in establishing paternity if she so requests. [These individual or group meetings shall be held:

1. Weekly for facilities that discharge the adolescents soon after they deliver; and
2. At least monthly for facilities that continue to provide services to the adolescents and their infants after delivery.]

(c) [When] **Unless contraindicated by the placing agency staff, when** the infant's father is known and the adolescent mother agrees, the facility shall attempt [at least two in-person contacts] **to arrange contact** with him [within two months of the adolescent's admission to the facility] to discuss his interest in his child.

[1. If the father does not respond to initial contacts made by the facility, the facility shall send a certified letter to all known addresses where the father may be residing indicating the facility's interest in discussing his involvement with his child.

2. The facility shall not be obligated to comply with (c)1 above if it documents that the father's involvement would place the adolescent or infant at physical or emotional risk.]

- (d) (No change.)

3A:55-10.7 Services to the adolescent's family

(a) [The] **Unless contraindicated by the placing agency staff, the** facility shall attempt [two in-person contacts] **contact** with the adolescent's parents[,] or other adult relatives [that] **who** are responsible



for the adolescent if the parents are not available, [within two months of the adolescent's admission] to discuss the case management plan.

1. If the adolescent's parents or other responsible adult relatives do not respond to the initial contacts, the facility shall send a certified letter to all known addresses where they may be residing indicating the facility's interest in discussing their involvement with their daughter and grandchild.

2. The facility shall not be obligated to comply with (a)1 above if it documents that the family's involvement would place the adolescent or infant at physical or emotional risk.]

### 3A:55-10.9 Infant stimulation

(a)-(b) (No change.)

(c) The facility shall ensure that all infants have toys that are [accessible] **available** to them in their bedrooms.

(d) The facility shall ensure that when adolescent mothers are in school or working, their infants are cared for, either in the facility, in a licensed child care center, or in a [licensed or] registered family [day] **child** care [or group day care] home.

(e) Facilities that provide services to adolescent mothers and infants between three and 18 months of age shall ensure that the adolescent mothers engage in at least four of the following activities with their infants for at least a total of 45 minutes each day:

1. Sensory activities[: crib mobiles, teething toys, busy boxes, baby mirrors, rattles, melody chimes, squeeze toys, or other comparable supplies or equipment];

2. Language activities[: picture books, toy telephones, records, hand puppets, stuffed animals, soft washable dolls, photographs, or other comparable supplies or equipment];

3. Manipulative activities[: squeeze and grip toys, boxes, sorting and stacking toys, three or four-piece wooden inlay puzzles, puzzle blocks, simple threading toys, mobile pull toys, balls, or other comparable supplies or equipment];

4. Building activities[: soft lightweight blocks, toy cars, trains or boats, figures of animals and people, stacking rings or cups, nesting toys, or other comparable supplies or equipment];

5. Large muscle activities[: low climbers, slides, riding or rocking toys, foam or soft plastic balls, gym mats, play tunnels, or other comparable supplies or equipment]; or

6. Music activities[: rhythm instruments, record player and records, toys equipped with musical tones, musical mobiles, busy boxes, drums, xylophones, pianos, or other comparable supplies or equipment].

(f) Facilities that provide services to adolescent mothers and infants 18 months of age and older shall ensure that adolescent mothers engage in at least four of the following activities with their child for at least a total of 45 minutes each day:

1. Language activities[: reading a book, playing with flannel boards, pictures for discussion, materials for recognition, identification or classification, and puppets, audio-visual equipment, or other comparable supplies or equipment];

2. Science and math activities[: plants and gardening equipment, aquarium with fish or other appropriate live animals, water table and supplies, sand table and supplies, cooking supplies, weather chart, thermometer, counting equipment, or other comparable supplies or equipment];

3. Manipulative activities[: puzzles, pegs and pegboards, lacing boards, table top building toys, stencils, dominoes, pounding bench, lotto games, or other comparable supplies or equipment];

4. Large muscle activities[: rocking boat, wheel toys, climbers, slides, balance beam, barrels, large cartons, parachute, balls and beanbags, outdoor play equipment, gym mats, or other comparable supplies or equipment];

5. Building activities[: unit blocks (minimum of four sizes), transportation toys, farm animals, play people, work bench and tools, table top building toys, building logs, or other comparable supplies or equipment];

6. Art activities[: crayons, tempera paint, large brushes and newsprint, finger paint and finger paint paper, construction paper in assorted colors, paste or glue, blunt scissors, collage materials, non-toxic felt tip markers,

easels, clay or playdough , or other comparable supplies or equipment]; or

7. Music activities[: record player and records, piano, organ, guitar, rhythm sticks, drums, cymbals, bells, tape recorder, or other comparable supplies or equipment].

(g) (No change.)

### 3A:55-10.10 Infant toys and equipment

(a) (No change.)

(b) The facility shall [have] **use a choker tube or similar device** to ensure that all parts of all toys used by infants under three years of age are large enough so they cannot be swallowed by the infants.

(c) The [Bureau] **Office of Licensing** may also require the facility to take other necessary precautions to promote toy and equipment safety in keeping with recommendations of the United States Consumer Product Safety Commission.

### 3A:55-10.12 Money and allowance

(a) The facility shall provide opportunities for all adolescents to earn an allowance, unless [the adolescent is receiving AFDC benefits] **doing so would compromise her eligibility for benefits that she receives or may receive.**

(b) (No change.)

### 3A:55-10.13 Visiting and communication

(a) (No change.)

(b) The facility shall develop a visiting policy and explain the visiting policy to the adolescent and her parent(s) at intake. The visiting policy shall specify:

1. (No change.)

2. That family visits shall not be denied for an adolescent's infraction of rules, but may be denied as part of a case management plan after consultation with the [Division's case manager or other] placing agency;

3.-7. (No change.)

### 3A:55-10.16 Comprehensive health plan for infants

(a) (No change.)

(b) Unless contraindicated by the infant's physician, the facility shall ensure that adolescent mothers adhere to the following schedule in obtaining health care for infants:

1. At age one month, the infant receives:

i. (No change.)

ii. A check for **phenylketonuria (PKU)**, if indicated[;], (**unless completed prior to the infant's discharge from the hospital**);

2. Between two and two and one-half months of age, the infant receives[:

i. A] **a physical examination**[, as specified in (b)1i above; and

ii. Immunization for diphtheria, tetanus, pertussis (DPT) and Trivalent Oral Polio Vaccine (TOPV)];

3. Between three and one-half and four months **of age**, the infant receives a physical examination[,] and immunizations [as specified in (b)2 above];

4. Between five and six months **of age**, the infant receives:

i. A physical examination[, as specified in (b)1i above;

ii. Immunization for DPT; and

[iii.] ii. (No change in text.)

5. Between eight and nine months **of age**, the infant receives:

i. A physical examination[, as specified in (b)1i above];

ii.-iii. (No change.)

6. Between 11 and 12 months **of age**, the infant receives:

i. A physical examination[, as specified in (b)1i above];

ii.-iii. (No change.)

7. At 15 months **of age**, the infant receives[:

i. A] **a physical examination**[, as specified in (b)1i above;

ii. Immunizations for rubella and measles; and

iii. At 15 or 16 months, immunization for mumps];

8. At 18 months **of age**, the infant receives[:

i. A] **a physical examination**[, as specified in (b)1i above;

ii. A DPT booster;

iii. A TOPV booster; and

iv. Immunization for hemophilus influenza Type B];

9. At 24 months of age and annually thereafter (until age five), the infant receives:

- i. A physical examination[, as specified in (b)1i above];
- ii. (No change.)
- iii. A hemoglobin test; and
- iv. (No change.)

10. [At 36] By 12 months and semi-annually thereafter, a dental examination.

[(c) The facility shall ensure that the adolescent mother obtains a hemophilus influenza Type B (meningitis) immunization for her child when the child is two years of age, or at the earliest date possible thereafter.]

**(c) Unless contraindicated by the physician, the facility shall ensure that infants, toddlers, and children receive all childhood immunizations and boosters within the established age ranges as recommended by the Center for Disease Control's (CDC) Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP).**

(d) (No change.)

[(e) The facility shall ensure that a child who is five years old receives a DPT booster and a TOPV booster when he or she remains in the facility.]

3A:55-10.17 Comprehensive health care for adolescent mothers who are not pregnant

(a) The facility shall ensure that all adolescent mothers who are not pregnant and who have not had a **comprehensive** health examination within [one year] **30 days** prior to admission, receive a comprehensive health examination within 72 hours after admission[, unless she has received such a medical examination within 30 days prior to her placement]. This comprehensive health examination shall include, but not be limited to, an assessment of:

- 1.-6. (No change.)
- (b)-(c) (No change.)

3A:55-10.19 General medical practices

(a) The facility shall ensure that: [any]

**1. Any** medical, dental, psychological or psychiatric treatment, or medication administered to an adolescent is explained to the adolescent[.];

[1.] **2.** [The facility shall ensure that any] **Any** medical, dental, psychological or psychiatric treatment, or medication administered to an adolescent is explained to the adolescent mother[.]; **and**

[2.] **3.** (No change in text.)

(b) When serious accidents or illnesses occur to an infant, the facility shall take necessary emergency action and notify the adolescent, the adolescent's parent(s), if applicable, the [Division's case manager or other] placing agency, and the [Bureau] **Office of Licensing** immediately.

(c) When serious accidents or illnesses occur to an adolescent, the facility shall take necessary action and notify the adolescent's parent(s) if she is under 18 years of age, the [Division's case manager or other] placing agency, and the [Bureau] **Office of Licensing** immediately.

3A:55-10.21 Environmental sanitation requirements for disinfecting

(a)-(c) (No change.)

(d) The facility shall wash and disinfect the following items at least weekly, and before use by another infant:

- 1. Cribs, cots, mats, playpens, or other sleeping equipment approved by the [Bureau] **Office of Licensing**; and
- 2. Sheets, blankets, or other coverings.

(e)-(f) (No change.)

## MILITARY AND VETERANS' AFFAIRS

(a)

### OFFICE OF THE ADJUTANT GENERAL

#### New Jersey Distinguished Service Medal

#### Proposed Readoption: N.J.A.C. 5A:3

Authorized By: Brigadier General Michael L. Cunniff, The Adjutant General, Commissioner, Department of Military and Veterans' Affairs.

Authority: N.J.S.A. 38A:3-6(o) and (u) and 38A:15-2 and 3.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2017-255.

Submit written comments by December 15, 2017, to:

Mr. Mark Preston, Chief  
Administrative Services Bureau, IASD  
New Jersey Department of Military and Veterans' Affairs  
PO Box 340  
Trenton, NJ 08625-0340  
[Mark.preston@dmava.nj.gov](mailto:Mark.preston@dmava.nj.gov)

The agency proposal follows:

#### Summary

Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 5A:3 was scheduled to expire on March 7, 2018. As the Department of Military and Veterans' Affairs (Department) filed this notice of proposal prior to the expiration date, that date is extended 180 days to September 3, 2018, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Department has reviewed these rules and has determined that they continue to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, and, therefore, proposes to readopt these rules without change. The purpose of this chapter is to set forth the rules that outline, identify, and establish the eligibility and residency requirements for the award of the New Jersey Distinguished Service Medal.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

Subchapter 1 establishes the purpose and defines the terms for the State, in accordance with N.J.S.A. 38A:15-2, to recognize and commemorate the distinguished military service of its citizens through the awarding of the New Jersey Distinguished Service Medal.

Subchapter 2 establishes the procedures, the award criteria, standards, application process, and issuance of the New Jersey Distinguished Service Medal.

N.J.A.C. 5A:3 Appendix contains the application for the award/program.

#### Social Impact

The rules proposed for readoption establish the procedures, criteria, and residency requirements for the State of New Jersey to recognize and commemorate the distinguished military service of its sons and daughters through the awarding of the New Jersey Distinguished Service Medal. The rules proposed for readoption will have a positive social impact upon the New Jersey veteran population and upon the families of veterans.

#### Economic Impact

Other than the increased costs for the purchase of new medals and the cost of processing requests for the issuance of the New Jersey Distinguished Service Medal, the rules proposed for readoption will have no economic impact in general and will impose no obligations or costs to agencies outside of the Department.

#### Federal Standards Statement

The rules proposed for readoption are not subject to any Federal requirements or standards. Therefore, a Federal standards analysis is not required.