

STATE OF MAINE

**EMERGENCY CHILDREN'S SHELTER, SHELTER FOR
HOMELESS CHILDREN, AND TRANSITIONAL LIVING PROGRAMS
THAT ARE CHILDREN'S HOMES
LICENSING RULE**

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Chapter 37



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Office of Child and Family Services

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SECTION 1. PURPOSE AND SCOPE

This rule and its enabling statutes govern Emergency Children's Shelters, Shelter for Homeless Children, and Transitional Living Programs that are Children's Homes for youth in the State of Maine. To avoid redundancy and to streamline the rule, the statutory requirements may not be repeated in this rule. Facilities must understand and comply with the statutes governing the oversight of Children's Shelters and Transitional Living Programs.

Requirements specific to each Facility type are in Section 7.

SECTION 2. DEFINITIONS

Definitions in this rule are in addition to definitions in applicable statutes. The definitions in the statutes may not be repeated in this rule.

1. **Administrator** means an individual at least 21 years of age, who has at least a bachelor's degree from an accredited school and two years of experience in the management and supervision of personnel and facility or comparable training or experience. The administrator is charged with responsibility for the general administration of a Facility. Every individually licensed Facility must have an identified administrator.
2. **Applicant** means any individual, partnership, corporation, association, facility or trust that has submitted a written application for a license to operate a facility for Shelter for Homeless Children, Emergency Children's Shelter, or Transitional Living Program.
3. **Bedroom** means a distinct space used as a sleeping area for youth. A dormitory-style bedroom may be broken into several bedroom spaces using partitions. Closets, alcoves and corridors or any other room which is normally used for other than sleeping is not considered to be a bedroom.
4. **Behavior Management** means those principles and methods employed by a youth Facility to help a youth achieve positive behavior and to address and correct a youth's inappropriate behavior in a constructive and safe manner. This is done in accordance with written policies and procedures governing expectations, treatment goals, youth and staff safety, security, and the youth's care plan.
5. **Board of Directors** means an association of persons with ultimate administrative and managerial control and empowered to serve as the governing body of a Facility. This board normally discharges its responsibilities by employing a chief executive officer and formulating policies for the Facility's operations.
6. **Care Plan** means a comprehensive time-limited, goal-oriented, individualized plan for youth in care of a Shelter for Homeless Youth, Emergency Children's Shelter or Transitional Living Program.
7. **Child(ren)** means any person who has not attained the age of 21. In this rule, Child and Youth have the same meaning.
8. **Complaint Investigation** means the Department's review of Facility records, and Department-conducted interviews of youth, employees and collateral contacts to investigate a complaint against the Facility regarding compliance with this rule.
9. **Dangerous Situation** means an act or situation that endangers a youth, including dangers that have been ignored or uncorrected. Actual harm or injury need not occur.

10. **Department** means the Maine Department of Health and Human Services, Office of Child and Family Services, Children’s Licensing and Investigation Services.
11. **Direct Access** means access to the property, personally identifiable information, financial information or resources of a youth or physical access to a youth served by the Facility.
12. **Direct Care Worker** means a staff member who, by virtue of employment, has direct access to youth at the Facility. Direct care worker does not include an individual performing repairs, deliveries, installations or similar services who does not have direct, unsupervised access to youth. In this rule, the term “personnel” includes direct care workers.
13. **Diversions Control** means the prevention of the illegal distribution or misuse of prescription drugs or their use for purposes not intended by the prescriber.
14. **Emergency Children's Shelter** means a Facility that operates to receive children 24 hours a day and that limits placement to 90 consecutive days or less. Emergency children's shelter does not mean a family foster home or specialized children's home. If emergency shelter is a service provided by a children's residential care facility, the service is restricted to a designated physical area of the facility.
15. **Facility** means an Emergency Children’s Shelter, Shelter for Homeless Children, or Transitional Living Program.
16. **Gender Expression** means how a person presents gender outwardly, through behavior, clothing, voice or other tangible or perceived characteristics. Society identifies these cues as masculine, feminine, androgynous, or some combination, although what is considered “masculine” or “feminine” changes over time and varies by culture.
17. **Gender Identity** means a person’s internal sense of who they are with regard to gender, regardless of their sex assigned at birth.
18. **Governing Body or Governing Authority** means an individual or association of persons (board of directors) with ultimate managerial control and legal responsibility for the operation of a Facility.
19. **Homeless Youth** means a person 21 years of age or younger who is unaccompanied by a parent or guardian and is without shelter where appropriate care and supervision are available, whose parent or legal guardian is unable or unwilling to provide shelter or care and who lacks a fixed, regular and adequate nighttime residence. Homeless youth has the same meaning as homeless child(ren).
20. **Legal Guardian** means a person or persons with an ongoing legal responsibility for caring for a youth, including the biological or adoptive parent, or a court-appointed guardian or entity such as a state agency.
21. **LGBTQ+ is the acronym for** “lesbian, gay, bisexual, transgender and queer/questioning people. LGBTQIA is a version of this acronym, that includes letters for intersex and asexuality. While terms and identities frequently change and more are added, for the purpose of this rule, LGBTQ+ will be used to encompass all.
22. **Pregnant and Parenting Program** means a type of transitional living program that provides services for pregnant and/or parenting youth.
23. **Record** means all documentary material, regardless of media or characteristics, including, but not limited to, youth records, administrative, financial, health and personnel records made or received and maintained in accordance with law or regulation or in the transaction of business.

- **Electronic Records.** Electronic records include, but are not limited to, electronic health records, email and text messages, when available and made part of the electronic health record. Electronic signatures are an acceptable form of documentation.
24. **Reportable Event** means an occurrence that affects the health or safety of the youth or others that results, or could result, in a harmful or undesirable outcome. Events include, but are not limited to, the death of a youth for any reason, homicide by youth or household member, major physical plant disasters, major injury to the youth, serious suicide attempt or threat, or suspected human trafficking.
 25. **Sexual Orientation** refers to emotional, romantic, sexual and relational attraction to someone else, whether gay, lesbian, bisexual, straight or another identification.
 26. **Shelter for Homeless Children** means a Facility designed to provide for the overnight lodging and supervision of children ten (10) years of age or older for no more than ninety (90) consecutive overnights.
 27. **Staff Member** means an individual who is at least 21 years old and who is employed by or has applied for and may be offered employment at, a Shelter for Homeless Children, Emergency Shelter for Children or Transitional Living Program , including a contract employee or self-employed individual, whether or not the individual has direct contact with children. In this rule, the term “personnel” includes staff members.
 28. **Staff Member Letter of Eligibility** means a letter sent by the Department to the staff member who is subject to the comprehensive background check that reports eligibility status, provides basis for determination when ineligible, and provides information regarding the individual’s right to appeal.
 29. **Transitional Living Program** means a staffed children’s home that helps homeless youth find and maintain safe, dignified housing, and may provide specialized services, such as pregnancy and parenting services. For the purposes of this rule, Transitional Living Program does not include scattered site apartments where youth are living independently, or any other program that is not a children’s home.
 30. **Volunteer** means an individual who performs hours of service for a public agency for civic, charitable, or humanitarian reasons, without promise, expectation or receipt of compensation for services rendered.
 31. **Waiver** means written permission from the Department to modify a provision of this rule.
 32. **Young child** means a child under the age of 10 years.
 33. **Youth** has the same meaning as Child(ren) as defined in this rule.

SECTION 3. PROGRAM ADMINISTRATION

A. GOVERNING AUTHORITY

The Facility's governing authority must comply with program-specific standards set out in this rule and applicable statutes.

1. **Responsibility.** The governing authority must have ultimate managerial control and legal responsibility for the Facility's operation.
2. **Legal authority to operate.** The Facility must maintain documentary evidence of its legal authority to operate in the State of Maine, including bylaws, articles of incorporation, charter, partnership agreement, constitution, articles of association or similar documents as applicable. This information must be made available to the Department upon request.
 - a. A Facility operating as a corporation, partnership, or association, whether for-profit or not-for-profit, must maintain records of the names and current addresses of officers and directors.
 - b. A Facility operating as a for-profit entity must maintain a current list of the names and addresses of its principal owners.
3. **Governance.** The governing authority of a Facility may reside in an individual or a board of directors. The composition and structure of the governing authority must be adequate to discharge its responsibilities:
 - a. Non-profit Facilities must have a board of directors, which must:
 - i. Include community members who reflect diverse perspectives which may include youth;
 - ii. Maintain a record of meetings that includes the dates, attendance and topics discussed; records of the board of director meetings must be made available to the Department upon request;
 - iii. The board of directors must maintain a current record of its membership including the name, address, contact information, position and term of office of each member.
 - b. For-profit Facilities must have an advisory board, which must:
 - i. Have a mechanism for obtaining feedback from youth that includes a procedure for direct input to the advisory board, including community members and local public officials who reflect diverse perspectives;
 - ii. Provide advice to the governing authority;
 - iii. Maintain a record of meetings that includes the dates, attendance and topics discussed; records must be made available to the Department upon request; and
 - iv. The governing authority must maintain a current record of the membership of the advisory board including the name, address, and contact information of each member.
4. **Prohibited.** The following persons are prohibited from serving as the governing authority:
 - a. An employee of the State or federal government who has regulatory oversight of the Facility.

- b. An employee, or a family member of an employee, assigned responsibilities associated with the licensing or regulatory oversight of the Facility, or associated with contracting functions of an agency that purchases the services of the Facility.
5. **Valid license.** The Facility must have a current, valid license.
6. **Responsibilities.** The Facility must have a governing authority that is responsible for and has authority over the policies and operations of the Facility. The governing authority's responsibilities include but are not limited to the following provisions:
 - a. Reviewing written policies and procedures required by this rule annually.;
 - b. Ensuring that the Facility is adequately funded and fiscally sound;
 - c. Reviewing and approve the Facility's annual budget;
 - d. Reviewing and accept the Facility's annual audit and annual financial report;
 - e. Providing facilities, staff, equipment, supplies and other resources to provide licensed services;
 - f. Abuse and neglect in the Facility. The Facility must ensure that when the governing authority is made aware that abuse and neglect of a youth has occurred, that these instances are appropriately reported per Section 5(G)(1), and that reporting procedures exist that are transparent and accessible to all youth and employees.
7. **Conflict of interest.** The governing authority is subject to the Facility's written conflict of interest policy.

B. ORGANIZATIONAL CHART

The Facility must have a written, up-to-date organizational chart and policies governing the line of authority, communication, staff responsibility and staff assignment.

C. PROGRAM ADMINISTRATOR

The Facility must have an administrator or designee who demonstrates the ability to manage the affairs of the Facility. The administrator's duties include but are not limited to the following:

1. Ensuring the Facility's continual compliance and conformity with all relevant laws and regulations, whether federal, State, or local, governing the operation of the Facility, including but not limited to those set out in this rule;
2. Ensuring that reportable events are reported to the Department within the required timeframes;
3. Ensuring notification to the Department within 24 hours after receiving notice or learning of an arrest or indictment of any personnel related to criminal activity that is alleged to have occurred on the grounds of the Facility or any location where services are provided;
4. Providing written notification to the Department within two weeks after the facility receives notice of any legal proceedings related to the provision of services or the continued operation of the facility, whether brought against the facility or against the facility's personnel. Legal proceedings, including but not limited to, bankruptcy, civil rights complaints, professional licensing body sanctions, lawsuits, alleged criminal activities by personnel that have implications for the programmatic or fiscal integrity of the Facility or the safety of its youth.

5. Providing written notification upon any change of administrator. The licensed Facility must notify the Department at least 30 calendar days prior to a planned change or within 10 calendar days of an unplanned change in the Facility's administrator; and
6. Must have the authority to cooperate with Department inspections and investigations.

D. ANNUAL PROGRAM EVALUATION

The Facility must complete an annual program evaluation. The process must include family and youth interviews, as appropriate. The written program evaluation must be available to the Department upon request and must address at least the following:

1. General program effectiveness in relation to stated goals and community needs;
2. General staff effectiveness and staffing patterns;
3. Staff turnover rate;
4. Review of grievances and complaints, responses and outcomes;
5. Emergency and safety procedures;
6. Frequency of unplanned discharges of youth in care (*not applicable for Shelters for Homeless Youth*).

E. FINANCIAL

1. **Financial accountability and viability.** The Facility's financial accountability and viability must be achieved through the application of sound financial management practices that are consistent with legal and regulatory requirements.
2. **Management systems.** The Facility must maintain a business management system, including written policies and procedures to assure maintenance of complete and accurate accounts, books, and records.
3. **Budget.** The Facility must develop a formal, annualized line-item budget approved by the governing authority, indicating revenues and expenses for the current fiscal year.

SECTION 4. LICENSE APPLICATION REQUIREMENTS

A. DEPARTMENT REVIEW OF APPLICATION

1. **Records and application review.** Prior to securing an initial license, a completed application must be submitted to the Department.
 - a. **Application must be complete.** A complete initial or renewal application means that all required information will be completed on the Department-approved form, and that form has been received by the Department with all required documentation. Incomplete applications on which no action has been taken by the applicant after 60 calendar days are void.
 - b. **Documents required with initial application.** The following documents must be submitted with the completed application:
 - i. Statement of purpose which specifies the Facility's philosophy, purpose, and program orientation and describes both short and long term goals. The statement must identify the types of services provided and the characteristics of the youth, including age range, to be served by the program;
 - ii. Statement of ownership including the names and addresses of principal owners, and the names and addresses of officers and directors;
 - iii. An organizational chart with an explanation of lines of accountability and authority;
 - iv. A list of governing body members, identifying the office held by the member, and member's addresses and other contact information;
 - v. Staff roster;
 - vi. Sample youth file;
 - vii. A list of all services the applicant intends to provide complete with program description;
 - viii. Certificate of occupancy;
 - ix. A description of the location and a sketch of the floor plan;
 - x. A written financial plan projected for the term of the license which demonstrates the ability of the applicant to provide the services for which they are seeking licensure;
 - xi. Emergency, disaster, hazard, and evacuation plan;
 - xii. A written close of business plan governing all organizational components;
 - xiii. A copy of all policies and procedures to demonstrate compliance with this rule. See Section (5)(E) for a complete list of policies required.
2. **Renewal of license.** A renewal application must be received by the Department at least 60 days prior to the license expiration date. Failure to submit a renewal application prior to the expiration will result in the expiration of the license. The renewal application must include:
 - a. **Financial report.** An updated budget and financial report which demonstrates the Facility's financial capability to carry out its program for the licensing period;

- b. Documentation of changes. Any documentary information which has changed since the time of its previous application including, but not limited to, a change in policies, a change in the organizational chart, or a change in programming;
 - c. Current staff roster with date of hire;
 - d. List of all client intakes and discharges during the last licensing period (*not applicable for Shelters for Homeless Children*).
3. **Renewal of expired license.** A license may be renewed only if a completed application is received by the Department at least 60 days prior to the license expiration date. A license is non-renewable after the expiration date. A Facility for which the license has expired must obtain a new license in order to continue operations. Whereas an expired license is non-renewable, a Facility with an expired license must submit an application for a new license and is subject to all requirements governing new applications. The Department will not back date licenses for facilities that failed to submit renewal applications prior to expiration of the Facility's license.
4. **Issuance of license.** Upon receipt of an application for a license or renewal thereof, the Department will inform the applicant of the steps it will follow in the licensing process which may include interviews, site visits, review of records, and technical assistance related to meeting and maintaining licensing requirements.
5. **Inspections**
- a. **Right of entry.** Any employee authorized by the Department will, at any reasonable time, have the right of entry and may inspect the Facility and any records required by this rule in order to determine compliance with law and with rules established by the Department in accordance with 22 M.R.S. §7804.
 - b. **Fire and safety inspection.** Upon receipt of an application for a license or renewal thereof, the Department will contact the State Fire Marshal's Office to request an inspection of the applicant's physical plant to ensure compliance with appropriate State and local regulations regarding safety. The Department will request copies of such inspection reports.

SECTION 5. CORE LICENSING REQUIREMENTS

A. SERVICE TYPES. Youth facilities may be licensed to provide any of the following services:

1. Shelter for Homeless Children
2. Emergency Children's Shelter
3. Transitional Living Program

B. LICENSES

1. **Provisional license.** The Department will issue a provisional license for a term of 12 months to an applicant that:
 - a. Has not previously operated a Facility subject to this rule, or is licensed, but has not operated during the term of that license;
 - b. Complies with all applicable laws and rules, except those which can only be complied with once youth are served by the applicant; and
 - c. Demonstrates the ability to comply with all applicable laws and rules by the end of the provisional license term.
2. **Full license.** A full license may be issued for a term of one year to an applicant that demonstrates compliance with this rule and applicable statutes.
3. **Conditional license.** A conditional license may be issued by the Department, when the Facility fails to comply with applicable laws and rules, and in the judgment of the Commissioner, the best interest of the public would be so served by issuing a conditional license. The conditional license must specify when and what corrections must be made during the term of the conditional license.
4. **Amended license required when changes occur.** A licensed Facility must notify the Department prior to implementation of any proposed change or modification to any term specified on the physical license and request an updated license. Upon completion of its review, the Department may issue an amended license. The term of the new amended license remains the same as the original license but the effective date for the approved change may be different.
5. **Specifications of a license.** The license issued by the Department includes the following information:
 - a. The legal name of the Facility and the principal owners if a for-profit entity, and the senior officer if a not-for-profit entity, and the 'doing business as' name, as applicable;
 - b. The location of the physical site covered under the license;
 - c. The number of licensed beds; and
 - d. The effective date and term of the license.
6. **License is non-transferable.** A license is non-transferable and non-assignable.
7. **License posted.** A copy of the current valid license from the Department must be conspicuously posted where it may be seen by the public at the physical site where services are provided.

C. WAIVERS

A Facility may request a waiver of a provision of this rule. The Facility must provide clear and convincing evidence, including, at the request of the Department, expert opinion, which demonstrates to the satisfaction of the Department that the Facility's alternative method will comply with the intent of the rule provision. The Department may waive or modify a provision of this rule under the following terms and conditions:

1. The provision is not mandated by State or federal law;
2. The waiver must not violate the rights of person(s) receiving services;
3. The Facility must submit a written request to the Department for a waiver;
4. The request for a waiver must be accompanied by documentation that demonstrates that the terms of the waiver comply with the intent of the rule;
5. The Department may consult with subject matter experts prior to issuing a decision regarding the request for a waiver;
6. A waiver, when granted, must be for a specific period not to exceed the term of the license;
7. The Facility may request a renewal of the waiver at the time it requests the renewal of its license; and
8. A violation of a waiver is enforceable as a violation of this rule and is subject to the enforcement procedures in this rule.

D. INSPECTIONS AND INVESTIGATIONS

The Department's authorized representative has the right to enter to inspect for compliance with this rule at any time consistent with the usual hours of operation of the Facility, in accordance with 22 M.R.S. §7804.

1. **Inspections required.** The Facility must submit to regular and unannounced inspection surveys and complaint investigations to receive and maintain a license.
 - a. The Department must be granted access, within a reasonable amount of time, to any documents and records required to ensure compliance with this rule.
 - b. The Department may access electronic records either through a State-owned computer or device, through a computer or device provided by the Facility, or with assistance from a Facility's staff member.
 - c. The Department may copy any documents and records required by this rule as evidence of compliance.
 - d. The Department has the right to meet or speak in private with any person employed by or receiving services from the Facility for determining compliance with this rule, except that a person receiving services has the right to refuse to meet or speak to the Department's authorized representative. The Department may interview the youth's guardian as necessary.
2. **Complaint investigation**

- a. **Complaints.** The Department will accept complaints from any person about alleged violations of this rule. The Facility must not retaliate against any youth or their representative for filing a complaint. All licensing violations identified during a complaint investigation will be provided to the Facility in writing, minimally in a Statement of Deficiencies or Violation Identification Letter. The Department may utilize any enforcement action authorized in this rule or under law, including revocation or suspension of a license when circumstances pose imminent risk of harm to youth.
 - b. **Department's toll-free number posted.** The Facility must post the Department's toll-free telephone number and other contact information, if available, for youth and legal guardians to contact the Department to make a complaint about the Facility.
 - Child Protective Services, at 1-800-452-1999, available 24 hours per day, 7 days per week.
 - Adult Protective Services, at 1-800-624-8404, available 24 hours per day, 7 days per week.
 - c. **Facility's grievance procedure.** The Facility must educate the youth and legal guardians about the Facility's written grievance procedure in a way that is accessible and understandable to all youth, and must include a signed youth or guardian notification of receipt of such education in the youth's record.
 - d. **Investigation.** The Department may investigate or have investigated on its behalf complaints, incidents, suspected abuse, neglect, and exploitation, inadequate care or supervision, or the Facility's failure to comply with this rule.
 - i. **Federal or State laws.** Department investigations may also involve suspected violation of State or federal law or rules.
 - ii. **On-site investigations.** On-site Department investigations may be unannounced.
3. **Operating without a license: enter and inspect.** The Department is authorized to inspect facilities operating without a license. If the Facility refuses entry during usual hours of operation, the Department will seek an administrative warrant pursuant to Rule 80E of the Maine Rules of Civil Procedure.

E. POLICIES AND PROCEDURES REQUIRED BY FACILITY

All Facility policies must be inclusive of the LGBTQ+ community.

1. **Abuse policy.** The Facility must have a written policy for handling known instances of youth and adult abuse or neglect and situations in which there exists reasonable cause to suspect abuse or neglect.
2. **Communication.** The Facility must have written policies regarding visiting and other forms of youth's communication with family, friends, and other people important to the youth, as appropriate.
 - a. **Privacy.** The Facility must provide conditions of reasonable privacy for visits and telephone contacts between youth and their families.

- b. **Electronic devices.** The Facility must provide a written policy on the use of internet and personal electronic devices, including but not limited to: personal cell phones, gaming devices, tablets, and social media.
 - c. **Restriction on communication.** The Facility’s communication policy must include provisions for documentation when the youth’s legal guardian has prohibited or restricted communication.
 3. **Conflict of interest.** The Facility must have a written conflict of interest policy that at minimum defines a conflict of interest between staff and youth served.
 4. **Discharge policies and procedures.** The Facility must have written policies and procedures for discharges and must include, as applicable, the criteria for standard discharge; the criteria for emergency discharge; the procedure for children who self-discharge while dangerous to self or others; a method of notification of appropriate persons, including the Department and law enforcement, as appropriate, when a child deemed to be dangerous to self or others self-discharges from the Facility.
 5. **Diversion control policy.** The Facility must maintain a current diversion control policy that contains specific measures to reduce the possibility of diversion of controlled substances from legitimate treatment use, and that assigns specific responsibility for carrying out the diversion control measures and functions described in the Facility’s diversion control policy.
 6. **Eligibility and access to services**
 - a. **Eligibility criteria.** The Facility must have written eligibility criteria. The Facility must, when applicable, have policies and procedures governing self-admission which must include procedures for notification of legal guardians.
 - b. **Intake, screening, and admission.** The Facility must have written policies and procedures for intake, screening, and admission processes.
 - c. **Non-discrimination in providing services.** The Facility must not refuse admission to any youth on the grounds of race, sex, sexual orientation, gender identity, religion, disability, or ethnic origin. Admissions may be limited if a prospective youth’s needs cannot be met with reasonable accommodation that does not place an undue burden on the Facility or constitute a fundamental change in the Facility’s services.
 - d. **Americans with Disabilities Act.** The Facility must comply with the *Americans with Disabilities Act of 1990 (ADA)*.
 7. **Inclusion policy.** The Facility must have a policy that addresses how the Facility will ensure equal opportunity for success regardless of the youth’s gender identity or gender expression. This policy must include, but is not limited to, safe and accessible bathrooms, safe and gender-affirming sleeping arrangements, inclusive language on signs and forms, provisions for the reporting and prevention of harassment, and staff training on inclusion.
 8. **Infectious disease policy.** The Facility must have a written infectious disease policy for the prevention, control, and investigation of infections which includes:
 - a. A protocol for early identification, reporting, and monitoring of infections;
 - b. A protocol for the prevention of the spread of infection consistent with applicable standards of care;

- c. Monitoring of staff for infections and prohibiting employees with a communicable disease or infected skin lesions from direct contact with youth food; and
 - d. Procedures for containment and disposal of biomedical waste.
9. **Medication administration policies and procedures.** The Facility must have written medication administration policies and procedures, including but not limited to, the acquisition, storage, administration, documentation, and disposal of medication, as well as procedures for staff training.
- a. If the Facility allows a youth to self-administer medications or administer medications to their child, medication policies must include the following:
 - i. a means to assess a youth's ability to responsibly self-medicate or the youth's ability to administer medication to their child;
 - ii. training for youth concerning medications and side effects, administration procedures, safe storage, and documentation of all medications administered; and
 - iii. the type of supervision and monitoring provided by staff.
 - b. The policies must specify who can administer medication, under what circumstances, and procedures for documenting the administration of medication.
10. **Personnel policies and procedures.** The Facility must have written policies and procedures related to personnel.
11. **Record management policies and procedures.** The Facility must have a written records management policy. The Facility's record management policies and procedures must include objective criteria to determine when to allow a youth to access their record. It must also describe how the records will be protected against loss, tampering, or unauthorized use.
12. **Reportable event policies and procedures.**
- a. **Managing reportable events.** The Facility's written policies and procedures must describe in detail how it reports and manages reportable events.
 - b. **Notification of reportable events or dangerous situations.** The written policy must include procedures for reporting reportable events. At a minimum, the Facility's written policies must require notifying the Department and the youth's legal guardian that a reportable event has occurred. Reportable events must be reported to the Department and the youth's legal guardian within 72 hours. The Facility may use discretion regarding guardian notification if such notice would put the youth at risk.
13. **Rights policy.** The Facility must have a written policy concerning the rights and responsibilities of all youth. The policy must include, at minimum, the rights listed in Section 5(H).
14. **Routine and emergency healthcare policy.** The Facility must have a written youth healthcare policy. The policy must:
- a. Include a plan for informing guardians of the need for medical and/or dental services of youth served, as appropriate, notwithstanding the youth's ability to consent in accordance with 22 M.R.S. §§ 1502 and 1503;
 - b. Include evidence of access to emergency medical and mental health services at all times;

- c. Include a means of appraising the general health of each child while in care and provision of guidance in the areas of personal care and hygiene;
 - d. Require at least one on duty staff in each residence to be certified in first aid and cardiopulmonary resuscitation (CPR) 24 hours a day; and
 - e. Require adequate first aid supplies to meet reasonably anticipated situations.
15. **Smoking policy.** The Facility must have a written policy regarding smoking at the Facility. Facilities may prohibit smoking on the premises or have a designated smoking area on the premises, per 22 M.R.S. §1580-A(3) and Rules Relating to Smoking in the Workplace, 10-144 C.M.R. Ch. 250.
16. **Weapons policy.** The Facility must have a written policy regarding weapons on site, which prohibits all staff and youth from possessing weapons while at the Facility and must include guidelines for staff response to situations that may arise.

F. RECORDS REQUIRED BY FACILITY

1. Record management.

- a. **Record maintenance.** The Facility must maintain clean, readable records in an orderly, accessible format in a secure and private space, and must have written record retention policies and procedures that address the archiving and destruction of records consistent with all applicable State and federal statutes. Records must be made available to the Department upon request.
- b. **Record retention.** The Facility must maintain the youth's records for a period of no fewer than seven years after the youth's discharge, unless specified otherwise in applicable State or federal laws. At that time the records may be disposed of in a manner which maintains their confidentiality.

2. Personnel Records.

The Facility must maintain a personnel record for each staff member which must include:

- a. Employment history;
- b. Reference letters from former employers and/or personal references, or phone notes on such references, per Section 8(A);
- c. Results of background checks, per Section 8(B) and 8(C);
- d. Applicable professional credentials and certifications, per Section 8(A);
- e. Periodic performance evaluations;
- f. Personnel actions, other applicable materials, reports, and notes relating to the individual's employment with the Facility;
- g. Starting and termination dates;
- h. A statement read and signed by the employee which includes the definitions of abuse and neglect per 22 M.R.S. § 4002(1) and outlines the responsibility to report all incidents of child abuse or neglect per 22 M.R.S. § 4011-A;

- i. A statement read and signed by the employee which includes the definitions of abuse, neglect, and exploitation per 22 M.R.S. § 3472 and outlines the responsibility to report all incidents of adult abuse, neglect, or exploitation per 22 M.R.S. § 3477; and
 - j. Documentation of training completed.
3. **Volunteer and intern records.** The Facility must maintain a personnel file for each volunteer or intern having direct contact with the youth in care which must contain:
 - a. Employment history;
 - b. Results of background checks; per Section 8(B) and 8(C);
 - c. Reference letters from former employers and/or personal references, or phone notes on such references, per Section 8(A);
 - d. A statement read and signed by the volunteer or intern which includes the definitions of abuse and neglect per 22 M.R.S. § 4002(1) and outlines the responsibility to report all incidents of child abuse or neglect per 22 M.R.S. § 4011-A;
 - e. A statement read and signed by the volunteer or intern which includes the definitions of abuse, neglect, and exploitation per 22 M.R.S. § 3472 and outlines the responsibility to report all incidents of adult abuse, neglect, or exploitation per 22 M.R.S. § 3477; and
 - f. Documentation of trainings attended.
4. **Employee and volunteer access to records.** The Facility must provide staff members and volunteers reasonable access to their personnel file and must allow them to add any written statement.
5. **Youth records.** Youth record entries must meet the following criteria:
 - a. Records must be specific, factual, relevant, and legible;
 - b. Records must be current, from intake through discharge;
 - c. Records must be completed, signed with identifying credentials, and dated by the person who provided the service.
 - d. Content of youth record. The Facility must maintain documentation in the youth's record in chronological order. The youth's record is not limited to, but must include, when available, the following information:
 - i. Demographic information. The name, gender, race, religion, verified birthdate;
 - ii. Legal guardian information, when applicable, including the name, address, telephone number, and other contact information;
 - iii. Date of admission and source of referral;
 - iv. Documents relating to referral and admission;

- v. The name, address, telephone number and relationship to the youth of the person with whom the youth was living if the youth was not living with their parent(s) or legal guardian prior to admission;
 - vi. Court documents (*not applicable for Shelters for Homeless Children*);
 - vii. Intake assessment;
 - viii. Care Plan;
 - ix. Progress notes;
 - x. Incident Reports. In addition to reportable events, other significant incidents, including all accidents, personal injuries and illness and pertinent incidents related to youth's care plan must be documented. The record must include documentation of who was notified of the incident;
 - xi. Discharge summary (*not applicable for Shelters for Homeless Children*); and
 - xii. Authorization of release of information.
- e. **Missing information.** The Facility must place a written explanation in the youth's record for the absence of any required information.
- f. **Access to youth's record.** A youth or the youth's legal guardian may access the youth's records if the information does not contain material which violates the right of privacy of another individual or material that must be withheld from release under law or by the order of the court.
- g. **Denial of access.** If serious harm to the youth is likely to result from review of the youth's record, the Facility may deny, or otherwise limit, access to part or all of the youth's record. The request, findings and notification must be included in the youth's record.
- i. **Procedure to determine harm and denial.** The Facility's record management policy must include objective criteria to determine when it would be harmful to allow access to a youth's record.
 - ii. **Written findings.** The Facility's written decision to deny access to a youth's record must be based on objective criteria and must include the findings of fact.
 - iii. **Review of findings.** The Facility's administrator or designee must review the findings and approve or deny access to the youth's record.
 - iv. **Notification.** The Facility must issue written notification of the decision to the requestor.
- h. **Information provided to legal guardian.** Within 72 hours of admission, whenever possible, the Facility must provide the legal guardian with written information which must include:
- i. A description of the philosophy of the Facility;
 - ii. A description of normal daily routines;
 - iii. A description of behavior management practices;

- iv. Visiting hours and other procedures related to communication with youth;
- v. A copy of grievance procedures and/or formal complaint processes;
- vi. A description of any religious policy including affiliation; and
- vii. The name and telephone number of a staff person whom the legal guardian may contact on an ongoing basis.

G. REPORTING REQUIREMENTS

1. Requirement to report abuse and neglect.

- a. **Report child abuse or neglect.** The Facility must immediately report any suspected abuse or neglect of a child to the Department of Health and Human Services, Office of Child and Family Services, Child Protective Intake, at 1-800-452-1999, available 24 hours per day, 7 days per week.
- b. **Report adult abuse, neglect or exploitation.** The Facility must immediately report any suspected abuse, neglect or exploitation of an incapacitated or dependent adult to the Department of Health and Human Services, Office of Aging and Disability Services, Adult Protective Services, at 1-800-624-8404, 24 hours per day, 7 days per week.
- c. **Reporting requirement.** The Facility must inform all direct care workers of their status and responsibility as mandated reporters of suspected abuse or neglect of a youth. The Facility must ensure that the telephone number of the Department's Child Protective Intake Unit (1-800-452-1999) is readily available to personnel. If applicable, the Facility must ensure that the Office of Aging and Disability Services, Adult Protective Services Intake Unit telephone number is available (1-800-624-8404).

2. Requirement to report changes to Facility.

- a. **Substantial change.** The Facility must notify the Department, in writing, 90 calendar days prior to any substantial change, including but not limited to change in administrator. The Facility may not increase youth capacity or begin new construction, additions, or alterations without the Department's prior approval.
- b. **Change in location, or name.** The Facility must notify the Department, in writing, at least 90 calendar days prior to a change in location or name.

3. Requirement to report legal proceedings.

- a. The Facility must provide written notification to the Department within two business days after the Facility receives notice of any legal proceedings related to the provision of services or the continued operation of the Facility, whether brought against the Facility or against any youth in the Facility.
- b. The program administrator or designee must notify the Department within 24 hours after receiving notice or learning of an arrest or indictment of Facility personnel related to criminal activity that is alleged to have occurred on the grounds of the Facility or any location where services are provided.

H. RIGHTS OF YOUTH

Youth rights. Youth have the following rights:

1. **Right to freedom from abuse or neglect.** Youth must be free from emotional, verbal, physical or sexual abuse or neglect. Suspected abuse or neglect must be reported to the appropriate office of the Department, in accordance with this rule and applicable statutes. Documentation must be maintained in the Facility that a report has been made;
2. **Right to confidentiality.** Youth records, and information about youth in the Facility are confidential;
3. **Right to freedom from harmful actions or practices.** Youth have the right to freedom from harmful actions or practices and practices that are potentially harmful;
4. **Right to a safe and healthy environment.** Youth have a right to an environment that meets the health and safety standards set out in this rule and applicable statutes;
5. **Right to be free from discrimination.** Youth must be provided services without regard to race, age, national origin, religion, disability, sex, sexual orientation, gender identity or family composition;
6. **Right to consideration and respect.** Youth must be treated with dignity, consideration and respect in full recognition of their individuality;
7. **Right to communication.** The Facility must ensure that it is adhering to policies covered in Section 5(E)(2). Youth may communicate with and maintain relationships with people who are important to them.
 - a. Youth may have access to phones and mail.
 - b. Nothing prohibits a youth's attorney, clergyman, advocate or an authorized representative from visiting, corresponding with or telephoning the youth.

I. ADMISSIONS

The Facility must not refuse admission to any youth on the grounds of race, gender, sexual orientation and identity, religion, disability or ethnic origin. Admissions may be limited if a prospective youth's needs cannot be met with reasonable accommodation that does not place an undue burden on the Facility or constitute a fundamental change in the Facility's program or services.

1. **Placement agreement** (*not applicable for Shelters for Homeless Children*).
 - a. The Facility must negotiate a written placement agreement at the time of the youth's admission that must include at least the following by reference or attachment:
 - i. Description of the roles and responsibilities of all agencies and persons involved with the youth and youth's family;
 - ii. Authorizations to care for the youth;
 - iii. Authorizations to obtain routine and emergency medical care for the youth, including consent forms signed by the legal guardian as applicable prior to placement that allows the Facility to authorize all necessary medical care in the event that the parent or guardian is not available, medications, routine tests, immunization and emergency medical or surgical

treatment, notwithstanding the youth's ability to consent in accordance with 22 M.R.S. §§ 1502 and 1503;

- iv. Designation of responsibility for routine medical arrangements; and
 - v. Arrangements regarding visits, mail, telephone calls, vacations, gifts and family contact and involvement.
- b. **Signatures on placement agreement.** The Facility must ensure that a written placement agreement is signed by and provided to the youth, the parent or legal guardian, and a Facility representative or Department representative if guardian is unreachable or unwilling to sign. A copy of the agreement must be placed in the youth's record.
- c. **Documentation of involvement.** When the involvement of the youth, the parent or legal guardian, the authorized representative or other party is not feasible or in the best interest of the youth, the reasons must be documented in the youth's record.
2. **Placement Limitations.**
- a. The Facility must not admit more youth into care than the number specified by the license.
 - b. The Facility must not admit any youth under the age that's indicated on the license.
 - c. The Facility may not admit a youth, as determined by the administrator or designee:
 - i. Who is deemed dangerous to self or others; or
 - ii. Whose primary need is medical or psychiatric hospitalization.
3. **Information provided to youth.** At admission, the Facility must provide the following to each youth in an accessible format:
- a. A document explaining the Facility's internal rules, which must be signed and dated by the youth;
 - b. A copy of the Facility's policy governing visiting and other forms of communication with family, friends and other persons important to the youth.
4. **Safety orientation.** During the youth's first full day, the Facility must assign a staff member to orient the youth regarding emergency procedures and the location of emergency exits. A written confirmation that such orientation has occurred must be placed in the youth's record.
5. **Release of information.** Unless otherwise permitted by law, the Facility must, prior to releasing confidential information about a youth, obtain an informed consent form signed and dated by the youth's legal guardian that includes the following information:
- a. Identification of the person or agency to whom the information is to be disclosed, including the relationship to the youth;
 - b. The specific information to be disclosed;
 - c. The reason for disclosure;

- d. The expiration date of the consent, not to exceed one year from the date of signature of the legal guardian. The Facility must ensure that the release remains current and upon expiration a new release is obtained as appropriate; and
 - e. Notice of the guardian's right to revoke consent for a release of information at any time.
6. **Information about youth or youth's family.** The Facility must maintain the confidentiality of the youth's records. Staff of the Facility must not disclose or knowingly permit the disclosure of any information concerning the youth or the youth's family to an unauthorized person.
 7. **Photographs or electronic media.** The Facility must obtain the written informed consent of the youth (if they can sign) and the legal guardian for the use of any photographs and electronic media images.
 8. **Consent for fundraising, publicity or research.** The Facility must obtain the written informed consent of the youth, if appropriate to the youth's capability, and consent of the youth's legal guardian prior to involving the youth in any activity related to fundraising or publicity for the Facility.

J. INTAKE

The Facility must complete an intake assessment in accordance with Section 7 of this rule.

1. **Assessment.** The intake assessment must include, as available, strengths and needs regarding the youth's housing history, social, health care coverage, prior medical history, medication, and family and social relationships, housing, life skills, employment, income and money management, education, child care, legal status, and mental health history including self-harm, suicidal ideation and substance use if appropriate, and other pertinent data. The assessment should also ascertain the youth's gender identity, and preferred sleeping arrangements. The assessment must include the reason for admission.
2. **Emergency Intake.** In an emergency situation, necessitating immediate placement, the Facility must gather as much information as possible about the child to be admitted and the circumstances necessitating placement. The Facility must record this information in an emergency admission note (*not applicable for Shelters for Homeless Children*).
3. **Medical Emergency.** The Facility must arrange for immediate medical emergency care if needed at time of admission.
4. **Signature.** The assessment must include the date, signature, and credentials of the person completing the assessment.

K. CARE PLANS

1. **Care plan.** Youth facilities must develop, within 15 days of admission, a care plan for each youth that includes an assessment of the youth's needs. Each youth must be encouraged to participate in the development of their care plan.
 - a. The care plan must include the following:
 - i. Findings of the assessment;
 - ii. Measurable action steps and target dates to complete each action step, and the homeless youth's progress toward reaching their goals;

- iii. Referrals for needed services and supports that are not provided directly by the Facility;
and
- iv. The written care plan must be signed by the administrator or designee, youth, and youth's legal guardian, if feasible. The signed, dated care plan must be placed in the youth's record.

L. DISCHARGE REQUIREMENTS

Facilities must develop a transition and discharge plan for each youth that addresses the youth's needs at the time of discharge (*not applicable for Shelters for Homeless Children*).

1. **Discharge summary.** The discharge process must include involvement of the youth, the youth's legal guardian and others as appropriate. When a youth is discharged, the Facility must compile a written summary within 30 days of the date of discharge. The discharge summary must be kept in the youth's record. The discharge summary must include:
 - a. Date of discharge, reason for discharge and the name, telephone number, address and relationship of the person to whom the youth was discharged;
 - b. A summary of services provided during care including prescribed medications, a summary of growth and accomplishments during care;
 - c. The assessed needs which remain to be met and alternative service possibilities which might meet those needs; as appropriate; and
 - d. Recommendations for an aftercare plan and identification of who is responsible for follow-up services.
2. **Unplanned or emergency discharge.**
 - a. The Facility must document any unplanned or emergency discharge to describe the circumstances of that discharge.
 - b. When there is an unplanned discharge, the discharge summary must include the circumstances leading to the unplanned discharge, the actions taken by the Facility and reasons supporting the Facility's discharge of the youth. In cases of emergency discharge, the Facility must immediately notify the guardian.
3. **Unauthorized absence.**
 - a. The Facility must notify the youth's legal guardian, the placing agency, and the appropriate law enforcement official in the event of unauthorized absence of a youth for more than four hours.
 - b. If a youth elopes from the Facility, staff members must conduct a review of available information to assess whether the youth may be at risk of human trafficking. If human trafficking is suspected, the Facility will immediately make a report to Child Protective Services or Adult Protective Services as appropriate.

M. HEALTHCARE

1. The Facility must arrange for health services for youth according to their needs. The Facility must ensure at least the following:
 - a. Ongoing appraisal of the general health of each youth;

- b. Comprehensive education and guidance concerning health, personal care and hygiene as appropriate and accessible to the youth;
 - c. Access to emergency medical and mental health services at all times;
 - d. Staff that are adequately certified in first aid and cardiopulmonary resuscitation (CPR), such that at least one CPR-trained staff is available 24 hours a day, 7 days a week in each residence;
 - e. The Facility operates in accordance with appropriate hygienic standards for the control of contagious diseases; and
 - f. Fully stocked first aid kits that are accessible to each major activity area of the Facility must be available. These kits must be checked and restocked regularly. Each building and vehicle that is used by youth must be equipped with first aid supplies adequate to meet the needs of the youth.
2. In accordance with 22 M.R.S. §§ 1502 and 1503, a minor may give consent to all medical, mental, dental or other health counseling and services under particular conditions. A written statement affirming that the minor is living separately from parents or legal guardians and is independent of parental support must be placed in the minor's record.

N. MEDICATION ADMINISTRATION, CONSENT, AND STORAGE

1. **Administration of medication.** The Facility must ensure that all persons administering medications are trained to administer medications and use safe and acceptable methods and procedures.
 - a. The Facility must ensure that staff responsible for medication administration are oriented to the Facility's procedures and have access to current information regarding medications being used within the Facility, including but not limited to, side effects of medications, contraindications and doses.
2. **Licensed medical practitioner's order required.** Facilities must not administer, arrange for or discontinue a medication or treatment without a written order signed and dated by an authorized practitioner licensed to prescribe medications.
3. **Medication upon admission.** Youth taking medication at the time of admission should continue doing so as long as the medication is in its original prescription bottle with label. Medications cannot be changed without a prescriber's order.
4. **Injectable medications.** Injectable medication must be administered by staff who are trained to administer injectable medications.
5. **Medication Administration.** For Facilities that administer medications, there must be:
 - a. **Medication record.** The Facility must maintain a written medication record for each youth. The youth's medication administration record must include, but is not limited to, the following information:
 - i. The written order for each medication or treatment prescription;
 - ii. Possible adverse side effects of prescribed medication; and
 - iii. Incident reports for medication errors and adverse reactions. Adverse reactions must be reported to the medical provider who prescribed the medication.

- b. **Medication administration record (MAR) schedule.** The youth's MAR must be made available to all staff members responsible for administering medication to the youth. A copy of the MAR must be placed in the youth's record. The Facility must have a written MAR for each youth to whom prescribed medication is administered which must contain:
 - i. Name of youth;
 - ii. Name of prescribing practitioner;
 - iii. Telephone number and other contact information at which prescribing practitioner can be reached in case of medical emergency;
 - iv. Reason for prescribing medication;
 - v. Date medication was prescribed;
 - vi. Generic or commercial name of medication;
 - vii. Dosage level, route and time of day when medication is to be administered; and
 - viii. Chart showing the date, time, dosage and initials of the individual administering the medication as well as the individual's full signature written somewhere legibly on the document.

- 6. **Storage of medication administered by the Facility.** The Facility must maintain medications in their original containers in a locked storage cabinet. The cabinet must be equipped with separate cubicles, plainly labeled, or with other physical separation for the storage of each youth's medications.

- 7. **Medication Consent.** Facilities must obtain consent from a minor's legal guardian for any initial medications ordered or changes in dosage, if required. Pursuant to 22 M.R.S. § 1502, a minor may give consent for certain specific health services as well as treatment for substance use disorder or for emotional or psychological problems. Pursuant to 22 M.R.S. § 1503, a minor may consent to all medical, mental, dental, and other health counseling and services provided certain conditions are met. The Facility must document the guardian or youth's consent.

- 8. **Youth's consent to medication.** When a youth is 14 years of age or older, the Facility must also obtain written informed consent from the youth prior to administration of the prescribed psychotropic medication except when the youth lacks the capacity to provide informed consent. A youth of any age prescribed psychotropic medication should, when possible, give informed consent, and be consulted and monitored for input, progress, and side effects.

- 9. **External-use medications and treatments.** The Facility must keep medications and treatments administered by the Facility that are for external use separate from medication taken internally.

- 10. **Psychotropic Medication** (*not applicable for Shelters for Homeless Children*). The Facility which admits youth using psychotropic medications must:
 - a. Confirm with the guardian and document medications have been prescribed by a physician and document such contact, unless confirming with the guardian poses a risk to the youth;
 - b. Obtain a current physician's report stating the reasons for prescribing the medications, the expected/desired results of the medications, if possible;

- c. On a daily basis, a staff member trained in the recognition of side effects of the prescribed medication must complete the daily monitoring report. Facility staff must monitor the youth who receives psychotropic medication; and
 - d. Psychotropic medication reactions must be reported immediately to the medical provider who prescribed the medication, documented in an incident report and kept in the youth's record. The Facility must follow up and document recommendations from the provider.
11. **Refusal of psychotropic medication** (*not applicable for Shelters for Homeless Children*).
When a youth refuses a psychotropic medication the Facility must immediately document in the youth's record the date and time, the name of the person attempting to administer the medication and the youth's stated reason for refusal.
12. **Staff medications.** Staff must secure their own personal medication in a way that makes it inaccessible to youth.

O. BEHAVIOR MANAGEMENT

1. **Behavior management interventions.** Behavior management interventions must be positive, strength-based, and assist youth to manage their own behavior. Consequences, including natural and logical, must be connected to the behavior, not excessive, and administered as soon as possible after the incident.
- a. Interventions must comply with the Facility's own written policies and procedures.
 - b. Administration of behavior management cannot be administered by youth, volunteers, or inadequately trained staff.
2. **Prohibited practices.** The Facility must ensure that youth are not subjected to:
- a. Practices that are cruel, severe, or unusual;
 - b. Verbal abuse, ridicule or humiliation;
 - c. Any type of physical punishment in any manner upon the body;
 - d. Administration of psychotropic medications as a means of punishment or discipline;
 - e. Group punishment;
 - f. Physical restraint;
 - g. Seclusion; or
 - h. Isolation.

P. PHYSICAL PLANT

1. **General condition of the Facility and premises.** The Facility must maintain all structures and the grounds of the Facility in good repair and free from danger to health or safety. Immediate steps must be taken to correct any condition in the physical Facility or on the premises that poses a danger to a youth's life, health, or safety. Areas deemed by the Department to be unsafe such as steep grades, cliffs, open pits, swimming pools, high voltage boosters, or high speed roads, must be fenced off or have natural barriers to protect youth.

2. **Local laws and codes.** All building sites must be accessible for the population intended to be served and in compliance with all applicable State and federal requirements. The Facility must maintain documentation from the appropriate municipal official indicating compliance with all local laws or codes relative to the type of Facility for which it is licensed. This requirement is necessary upon initial licensure and whenever a change occurs, such as, but not limited to: building renovations, remodeling, repair, or new construction. Such changes must be in compliance with applicable federal, State, and local law including Life Safety Code requirements designated by the State Fire Marshal's Office.
3. **Porches, elevated walkways, and elevated areas.** The Facility must have barriers to prevent falls from porches, elevated walkways, and elevated areas.
4. **Roads and driveways.** Roads and driveways must be regularly maintained and passable at all times of the year.
5. **Water supply and temperature.** Facilities must have an adequate, safe and sanitary water supply. Water temperatures in youth areas must not exceed 120° Fahrenheit. There must be an adequate supply of hot water to meet the needs of the Facility.
 - a. Prior to initial operation and annually thereafter, a Facility that obtains its water supply from any source other than an approved public water system must submit to the Department a written satisfactory water analysis report completed by a Maine-certified laboratory.
 - b. Initial testing requirement for facilities serving water from a municipal public water source. In order to hold a license, applicants serving water from a municipal public water system must collect one first-draw lead sample prior to receiving a license. The sample container must be from a Maine-certified laboratory and have a one-liter capacity.
 - c. Initial testing requirements for facilities serving water from their own well. A Facility serving drinking water from their own well must demonstrate satisfactory water quality by testing for the following contaminants by a Maine-certified laboratory:
 - i. Fluoride;
 - ii. Uranium;
 - iii. Arsenic;
 - iv. Lead (first-draw sample);
 - v. Total coliform bacteria; and
 - vi. Nitrates.
 - d. **Ongoing annual water tests for facilities with wells.** A Facility serving water from its own well must test the water annually for coliform bacteria and nitrates. Samples must be analyzed and results reported by a Maine-certified laboratory. Facilities must maintain water quality reports for Department inspection.
 - e. **Public drinking water system.** Facilities must comply with any applicable rules and regulations governing public water systems.
 - f. **Lead testing.** Regardless of the water source, every five years, the Facility must conduct a first-draw lead sample test.

6. **Plumbing and sewage disposal.** The Facility must ensure that all plumbing and sewage disposal is compliant with all local, State, and federal codes and requirements.
7. **Garbage.** All garbage which is stored outside must be stored securely in noncombustible, covered containers and must be removed on a regular basis not less than weekly.
8. **Heating systems.** Facilities must have a central heating system that can maintain a safe and comfortable ambient temperature with a minimum of 65° Fahrenheit.
 - a. **Annual inspection.** Heating systems other than electric heating systems must be inspected annually by a qualified technician who is certified to work on the system. The Facility must have written evidence that the heating system passed the inspection.
 - b. **Heating elements.** The Facility must install and insulate heating elements, including hot water pipes, in a manner that ensures the safety of youth if accessible to youth.
 - c. The Facility must remove or encapsulate any friable asbestos insulation within the building.
9. **Cooling.** If the indoor temperature exceeds 82° Fahrenheit, the Facility must cool the space.
10. **Lighting.** Exterior areas must have sufficient lighting to ensure the safety of youth and staff. Rooms, corridors, and stairways within the Facility must be sufficiently illuminated. Corridors and stairways within a Facility's sleeping area must be illuminated during the night or when activated by a motion detector. Open flame lighting is prohibited.
11. **Electrical equipment.** All electrical equipment, wiring, switches, sockets, and outlets must be maintained in good order and safe condition.
12. **Doors and windows.** The Facility must have doors on all bedrooms and bathrooms that can be readily opened from both sides. Doors on closets may be removed. Windows and window covers must be kept clean and in good repair and must ensure the safety and privacy of youth.
13. **Insect and rodent control.** There must be an effective pest control program so that the Facility is free of pests and rodents.
14. **Locked storage of poisonous, toxic, or flammable materials.** Poisonous, toxic, flammable and other dangerous materials must be stored in locked compartments used for no other purpose when not in use. They must not be stored with household cleaning solutions or other non-food supplies. They must be stored in a location that is separate from food storage and preparation areas, cleaning equipment and utensil storage rooms and medication storage areas.
15. **Kitchen and dining areas.** Kitchens used for meal preparation must be equipped with the necessary items for the preparation, storage, serving and clean-up of all meals. All kitchen equipment must be kept in working order and in sanitary condition.
16. **Youth living area.** Youth living areas must be cleaned regularly, well-maintained and kept in good repair. Administrative and counseling services must occupy space separate and distinct from youth living areas, and provide for privacy and security of discussions, and records.
17. **Laundry room.** If an onsite laundry room is utilized, it must be kept sanitary and in good repair. Linen and clothing must be regularly laundered and handled using proper sanitary techniques. Clothes dryers must be vented to the exterior of the building unless designed by the manufacturer to operate without ventilation, and approved for use in this type of Facility by the State Fire Marshal's Office.

18. **Staff quarters.** A Facility utilizing live-in staff must provide adequate separate living space for these staff.

19. **Youth sleeping areas.**

- a. The Facility must provide a designated area for rest and sleep for each youth. Those sleeping areas may consist of dormitory style rooms, individual bedrooms or shared bedrooms.
- b. The Facility must separate male and female sleeping areas. Youth will be assigned sleeping areas per their gender identity.
- c. The Facility must provide beds and mattresses that are clean, solidly constructed, and in good repair.
 - i. Beds provided for youth must be proportional to the youth's height and no fewer than 30 inches wide;
 - ii. If a bunk bed, provide sufficient head room to allow the occupant of each bunk to sit up;
 - iii. If a bunk bed, be limited to double bunk beds;
 - iv. Sheets, pillow cases, and blankets must be provided for each youth;
 - v. All beds must have a minimum three (3) foot separation to afford privacy and permit emergency evacuation.

20. **Youth bedrooms.** Youth bedrooms must:

- a. Provide at least 74 square foot floor area for a single occupant;
- b. Provide at least 50 square foot floor area for each occupant;
- c. Include a direct source of natural light (*not applicable for Shelters for Homeless Children*);
- d. Include windows which open or a mechanical ventilation system;
- e. Allow no more than four (4) children to occupy a designated bedroom space; and
- f. Provide adequate storage space for each youth's belongings.

21. **Bathroom facilities.** The Facility's bathrooms must:

- a. Have a minimum of one (1) wash basin, one (1) bath or shower, and one (1) toilet for every eight (8) youth;
- b. Have a safe and adequate supply of hot and cold running water;
- c. Have bathtubs or showers with slip-proof surfaces;
- d. Have toilets and baths or showers which allow for individual privacy;
- e. Contain mirrors secured to the walls at convenient heights and other furnishings necessary to meet each youth's basic hygiene needs;

- f. Be maintained in good operating condition;
 - g. Be maintained in a sanitary condition;
 - h. Have an adequate supply of toilet paper, hand-cleansing soap and paper towels or an approved hand-drying device available to youth; and
 - i. Be equipped with grab bars that meet the Americans with Disabilities Act standards.
22. **Towel, linen and bedding supplies.** Facilities must have adequate towel, linen, and bedding supplies. A complete linen change must be available at all times.
23. **Smoking.** Smoking must be prohibited in every part of the building. The Facility may permit smoking on Facility grounds in accordance with applicable rules and regulations governing workplace smoking. The Facility must clearly designate smoking areas with signs.
24. **Firearms prohibited.** Firearms, other weapons, and ammunition are prohibited on the grounds or within the building of any structure under the Facility's control that is used for the delivery of services. If law enforcement enter the premises in an official capacity, they may carry weapons.
25. **Pets.** Pets, except fish in aquariums, are not permitted in common dining areas during meals. No animals are permitted in common food preparation areas. The Facility must maintain documented proof of rabies vaccinations for pets. Pets may not present a danger to youth, staff, or guests. Facilities must be free of pet odors and must dispose of pet waste regularly. Service animals are not pets and are not subject to rules governing pets.
26. **Routine maintenance and cleaning.** There must be evidence of routine maintenance and cleaning in all areas of the Facility.
27. **Equipment.** The Facility must replace or repair broken, run-down, or defective furnishings and equipment.
28. **Exits.** The Facility must assure that every exit is free of all obstruction or impediments for immediate use in the case of fire or other emergency.
29. **Telephones.** The Facility must provide a sufficient number of telephones for the youths' use.
30. **Ventilation.** The Facility must have adequate ventilation.

SECTION 6. DAILY OPERATIONS

A. SUPERVISION OF YOUTH

The Facility must ensure adequate, developmentally-appropriate supervision of youth by direct care workers. See Section 7. Service Types for Facility-specific staff to youth ratios.

1. The Facility must retain a sufficient number of qualified employees.
2. Appropriate staff coverage must be in place at all times based on the following factors:
 - a. The age, capabilities, functioning levels, and program plans of the youth; and
 - b. The time of day and the size and nature of the Facility.
3. The Facility must ensure the availability of additional staff in the event of an emergency or crisis in the Facility.

B. RELIGION. A youth has the right to practice the religion of their choosing. The Facility must not impose any religious observances or practices on residents nor restrict access to or provision of services based on participation in or observances of any religious practices and/or religious affiliation of or by the residents.

C. SEARCHES. A search may be conducted when staff have cause or concern that misappropriated articles are present or that certain items would endanger the health or safety of a youth or others. Following a search, staff may confiscate any items found in the youth's possession that are misappropriated or that pose a health or safety risk to the youth or others.

1. Every search and the reasons therefore must be documented.
2. Routine or regularly scheduled safety sweeps of common areas do not require documentation.

D. FOOD SERVICE AND SAFETY

1. **Food preparation.** Facilities preparing food must ensure it is prepared and served in a safe manner and in accordance with applicable standards.
 - a. The Facility must offer a nourishing, well-balanced diet that meets the daily nutritional and special dietary needs of each youth. The Facility must make provisions for youth with special dietary needs.
 - b. No youth is to be denied a meal or coerced to eat for any reason.
2. **Meals and snacks.** Youth must be offered at least three meals in a 24-hour period. Additional food and beverages must be available 24 hours per day. Youth may choose whether to eat the offered meals unless otherwise directed by a physician.
3. **Perishable food.** When a program is supplying food, perishable items must be stored in sealed, labeled, and dated containers at temperatures that protect against spoilage.

E. TRANSPORTATION

1. **Vehicle requirements.** All vehicles used for the transportation of youth must be in a safe condition in conformity with all applicable motor vehicle laws and equipped in a fashion appropriate for the season.
2. **License requirements.** Any person authorized by the Facility to transport youth must be properly licensed to operate that class of vehicle.
3. **Number of passengers.** The Facility must prohibit the number of persons in any vehicle from exceeding the number of available seats in that vehicle.
4. **Smoking is prohibited** in any vehicle that transports youth.
5. **Seat belts.** All youth and staff members must be properly secured in a seat belt or child restraint system in compliance with 29-A M.R.S. § 2081.

F. EMERGENCY PREPAREDNESS

1. **Disaster, hazard, and evacuation plans.** The Facility must have a written disaster, hazard, and evacuation plan. The disaster, hazard, and evacuation plan must be based on a Facility's all-hazards risk and vulnerability assessment, must assign specific tasks and responsibilities to personnel and must be developed with the assistance of qualified community fire, health, and safety agencies. All plans and communication/notification systems will be updated annually and have primary and alternative means for communication/notification. At a minimum, the plan must address the following:
 - a. Natural disasters and man-made disasters, or other serious events, including active weapons;
 - b. Security of medication and records;
 - c. Safety of youth and staff, including an evacuation plan and shelter in place plan;
 - d. Notification plan for staff, youth and entities providing services to the Facility in emergencies;
 - e. How medication will be dispensed in the case of an emergency;
 - f. Training personnel and youth to report fires and other emergencies in accordance with written emergency procedures;
 - g. Training youth and personnel to evacuate the building, taking into account the needs of each individuals' conditions that may impair their ability to evacuate or their ability to understand the nature or purpose of the evacuation;
 - h. Training personnel on all shifts to perform assigned tasks during emergencies, including the use and location of emergency equipment;
 - i. Accounting for the whereabouts of personnel and youth during and after emergencies;
 - j. Coordination with emergency responders including volunteer emergency health care providers;
 - k. Plans for notifying the Department and the youth's guardian that youth have been evacuated from a Facility for any reason other than a timed drill or exercise, after youth are safely evacuated;

- l. Plans for notifying the State Fire Marshal's Office immediately after youth are safely evacuated;
 - m. Provision of necessities such as food and water to youth and staff for both shelter in place and evacuation plans; and
 - n. Alternate sources of energy to maintain temperatures for living and food safety, lighting, alarm and sprinkler systems, and sewage/waste disposal or an emergency plan for a safe alternate temporary location for the facility if heat or other utilities are inoperable for more than 12 hours.
2. **Continuity of operation plan.** The Facility must have an appropriate plan for site and program for the continuity of operation in the event of an emergency including:
- a. Plans for ensuring sufficient personnel and alerting a roster of volunteers to respond in the event of an emergency including delegation of authority and succession plans;
 - b. Plans for the management of ensuing medical and psychiatric emergencies;
 - c. Plans for the management of medical records and medication; and
 - d. Options for relocating youth, to include transfer and continuity of care agreements.

G. FIRE SAFETY

1. **Fire safety.** The Facility must comply with all applicable life safety codes and safety requirements including fire drills and smoke and carbon monoxide detector use, placement, and maintenance.
2. **Fire Marshal's inspection.** Prior to initial operation, and prior to re-licensure thereafter, Facilities must secure written documentation of compliance with the Life Safety Code after an inspection by the State Fire Marshal's Office or designee to ensure compliance with appropriate State and local regulations.
3. **Timed evacuation drills.** The Facility must conduct monthly, timed evacuation drills which must include actual evacuation of youth to safe areas.
4. **Fire drill record.** A record of such emergency drills must be maintained, noting dates and time, evacuation time and exits used, and participants.
5. **Posted information.** The Facility must conspicuously post emergency numbers in a place visible to persons using the telephone, including telephone numbers for fire, police, physicians, poison control, health agency and ambulance. Evacuation procedures must be posted in conspicuous locations throughout buildings.

SECTION 7. SERVICE TYPES

Facilities providing the following services must comply with core rules, Sections 3-6 and 8, in addition to the specific standards set forth in applicable parts of this Section.

A. SHELTERS FOR HOMELESS CHILDREN

Shelters for Homeless Children provide overnight lodging only.

1. **Hours of operation.** The Facility must open for daily operation no earlier than 4 p.m., and must cease operation no later than 9 a.m. the following morning.
2. **Guardian notification.** The Facility may allow the admission of a child into care for up to three hours without first notifying the child's guardian. The Facility must make good faith efforts to notify a guardian of a child's admission within the first day. If unsuccessful, the Facility must notify the guardian on the day following admission. If the guardian cannot be reached, the Facility must notify the Department of Health and Human Services in accordance with the mandatory reporting law, 22 M.R.S. §4011-A.

The Facility may admit the youth without notifying the guardian if the youth seeking admission indicates that notification of the guardian may result in harm to the child. The Facility must make an immediate referral to the Department of Health and Human Services.

3. **Guardian information.** The program must make good faith effort to provide the guardian with rules of the program, procedures related to communication with youth, copy of grievance procedures and/or formal complaint process, a description of any religious affiliation, and contact information for the program.
4. **Intake assessment.** The intake assessment must be completed within 12 hours of admission.
5. **Orientation.** Shelters for Homeless Children must provide safety orientation on the youth's first night in the shelter. For repeated stays, a safety orientation on the youth's first night is required if the youth has not been at the shelter in 30 days or more.
6. **Ratio.** There must be a minimum of one direct care worker for every 10 youth.
7. **Medication administration and storage.** During Shelter hours, the Shelter for Homeless Children must keep prescription medication in a locked area and must make available to youth for supervised self-administration. When necessary, the Shelter for Homeless Children may store medication during non-shelter hours and administer youth's medication in accordance with the following:
 - a. The Facility must document the reason for storing and administering the medication; and
 - b. The Facility must document the administration in the youth file.
8. **Physical plant.** Sheets and pillow cases must be changed daily.
9. **Discharge requirements.** The Facility must document the youth's discharge date and intended destination when known.

B. EMERGENCY CHILDREN'S SHELTER

Emergency Children's Shelters provide homeless youth and runaways with referrals and walk-in access to short-term residential care on an emergency basis.

1. **Guardian notification.** The Facility may allow the admission of a child into care for up to three hours without first notifying the child's guardian. The Facility must make good faith efforts to notify a guardian of a child's admission within the first day. If unsuccessful, the Facility must notify the guardian on the day following admission. If the guardian cannot be reached, the Facility must notify the Department of Human Services in accordance with the mandatory reporting law, 22 M.R.S. §4011-A.

The Facility may admit the youth without notifying the guardian if:

- a. The youth seeking admission indicates that notification of the guardian may result in harm to the child, provided that the Facility makes an immediate referral to the Department of Human Services; or
 - b. The Facility obtains confirmation from the Department that the Department has declared the need for short term emergency services and/or has obtained a court order ordering the child to stay at the Facility.
2. **Guardian permission.** The Facility must allow the admission of a child into care for up to 48 hours without the permission of the child's guardian.
 3. **Intake assessment.** The intake assessment must be completed within two business days of admission.
 4. **Ratio.** There must be a minimum of one direct care worker for every six youth during awake hours and a minimum of one direct care worker for every 10 youth during sleeping hours.
 5. **Notes.** The Facility must require at least one note per day in each youth's record which provides progress towards care plan goals and objectives. These notes must be written, dated, and signed by a direct care worker who worked with the resident during that day.
 6. **Medication.** Facilities may allow youth to self-administer medication.
 - a. **Self-administration.** If the Facility allows a youth to self-administer medications the Facility must:
 - i. Assess a youth's ability to responsibly self-medicate;
 - ii. Assess youths' knowledge of their medications and make referrals to medical professionals when youth are unclear or need more information or training about their medications; and
 - iii. Document compliance with subsections (i) and (ii) above in writing.
 - b. **Staff responsibilities.** Staff must assist youth with self-administration of medications. Assisting with self-administered medications includes, but is not limited to: reminding the youth to take their medications, reading instructions for utilization, uncapping medication containers, and providing the proper liquid and utensils with which to take medications. Staff must supervise and observe youth self-administration of medication.
 - c. **Medication administration record (MAR).** The MAR must notate that the medication is self-administered and the staff person who supervised the administration.
 7. **Physical plant.** Bed linens must be changed at least weekly or more often if necessary.

C. TRANSITIONAL LIVING PROGRAM

Transitional Living Programs may provide specialized services including but not limited to pregnant and parenting transitional living programs. The Department may provide technical assistance to ensure a Transitional Living Program with a different program type, and not specified by this rule, meets the health and safety needs of the youth served.

1. **Intake assessment.** The intake assessment must be completed within two business days of admission.
2. **Notes.** The Facility must require at least one note per week in each youth's record which includes progress towards care plan goals and objectives. These notes must be written, dated, and signed by a direct care worker who worked with the youth.
3. **Medication.** Facilities may allow youth to self-administer medication and to administer medication to their children. Requirements in this rule governing youth self-administration apply equally to a youth's administration of medication to their child(ren).
 - a. **Self-administration.** If the Facility allows a youth to self-administer medications the Facility must:
 - i. Assess a youth's ability to responsibly self-medicate and ability to administer medication to the youth's child(ren);
 - ii. Assess youths' knowledge of their medications and make referrals to medical professionals when youth are unclear or need more information or training about their medications; and
 - iii. Document compliance with subsections (i) and (ii) above in writing.
 - b. **Staff responsibilities.** Staff must assist youth with self-administration of medications. Assisting with self-administered medications includes, but is not limited to, reminding the youth to take their medications, reading instructions for utilization, uncapping medication containers, and providing the proper liquid and utensils with which to take medications. Staff must supervise and observe youth self-administration of medication.
 - c. **Medication Administration Record (MAR).** The MAR must notate that the medication is self-administered and the staff person who observed the administration.
4. **Physical plant.**
 - a. Household cleaners, kitchen utensils, and other daily use items do not need to be locked.
 - b. Bed linens must be changed at least weekly or more often if necessary.
5. **Transitional living program serving youth with young children.**
 - a. **Intake Assessment.** The intake assessment must include strengths and needs around prenatal health and care, postpartum care, parenting skills, and needs of the youth's child.
 - b. **Safety requirements.**
 - i. Electrical outlets in areas used by infants, toddlers, and preschool children must be protected by safety caps, plugs, or other means.
 - ii. Facilities must comply with Maine's *Lead Poisoning Control Act* regarding the use of lead-based paint on toys, furniture, or any interior or exterior surfaces per 22 M.R.S. Ch. 252.

The Facility must screen for potential lead hazards at least annually, unless (a) the Facility was constructed in 1978 or later, (b) the Facility has been certified as lead-safe within the previous 12 months, (c) the Facility has been certified as lead-free, or (d) the Facility does not serve any children under 6 years of age.

- iii. Any medications, toxic substances (including, but not limited to, cleaning supplies, pesticides, and solvents), matches, lighters, fireworks, power tools, and other items dangerous to young children must be kept where young children cannot access them.
 - iv. Strings and cords (e.g. those that are found on window shades) long enough to encircle a young child's neck (six inches or more) must not be accessible to young children unless engaged in a recreational or educational activity with an adult.
 - v. Toys and equipment must be kept clean and in safe working order.
 - vi. Heating units must be shielded to prevent injuries and burns.
 - vii. Air conditioners, electric fans, and heaters must be mounted and anchored out of all young children's reach or have safeguards that keep any child from being injured.
 - viii. A step, low platform, or other means must be placed next to toilets and sinks, for children who need help reaching and using them.
 - ix. Items that pose a tipping hazard must be secured in a way that prevents tipping.
 - x. Bed linens must be changed at least weekly or more often if necessary.
- c. **Napping and resting.** Infants must be placed on their backs on a flat surface for sleeping, unless the child's parent provides a physician's recommendation. Written documentation from the physician must be stored in the child's file. The provider must ensure that:
- i. A crib or play yard that meets current Consumer Product Safety Commission (CPSC) safety standards is provided for each child up to 18 months of age.
 - ii. Bassinets that meet current CPSC safety standards may be used for infants up to five months of age, within appropriate weight limits. A bassinet may not be used for an infant who can independently lift their chest off the sleep surface.
 - iii. Cribs, bassinets and play yards for infants less than 12 months old must not include soft or loose bedding including, but not limited to: bumper pads, pillows, quilts, comforters, blankets, sleep positioning devices, bibs or stuffed toys.
 - iv. Staff must educate and work with parents on safe sleep practices.
- d. **Training.** Staff and youth must receive training in Prevention of Sudden Infant Death Syndrome (SIDS) or Sudden Unexplained Infant Death (SUID), Shaken Baby Syndrome, and safe sleep practices. Staff must receive this training annually.

SECTION 8. PERSONNEL QUALIFICATIONS AND TRAINING

A. QUALIFICATIONS

1. **Personnel qualifications.** The Facility's personnel must be qualified to provide services by education, training, supervisory experience, licensure, or the equivalent, consistent with job descriptions and required qualifications to meet the needs of youth. The Facility must comply with the requirements of 22 M.R.S. § 8110(2).
 - a. The Program administrator must have a bachelor's degree and a minimum of three (3) years' experience in human services.
 - b. Direct care workers must have a high school diploma or equivalent.
 - c. A Facility employing any person not possessing the usual qualification for the position as outlined in the job description must have a written statement placed in the personnel file justifying such decision.
2. **Verification.** The Facility must verify and document the references and credentials of prospective personnel, including: education; training; relevant experience; employment and professional recommendations; and state registration, licensing or certification for the respective discipline, if any.
3. **Exercise good judgment and professional boundaries.** Staff members, volunteers, and interns must exercise good judgment and must not engage in any action or practice that may be detrimental to the welfare of the youth. Staff members must:
 - a. Comply with Facility policies and procedures;
 - b. Act professionally, with integrity, objectivity and equity;
 - c. Treat all individuals in a respectful, non-judgmental way;
 - d. Comply with this licensing rule;
 - e. Not become involved in youth personal lives beyond the scope of their professional function;
 - f. Not have personal relationships with or accept gifts or services from current or former clients; and
 - g. Not share any program or client information on social media.
4. **Background checks.** An individual must not work until background checks are completed and must not work unsupervised with youth until orientation training is completed in accordance with Section 8(B), (C), and (D) of this rule.
5. **References.** The Facility must determine the suitability and capability of prospective staff, in part, by at least three reliable and satisfactory references from persons not related to the applicant.
6. **Job descriptions.** The Facility must have written job descriptions for personnel. Job descriptions must state the qualifications, job expectations, essential position functions, responsibilities, appropriate licensure, and supervisory relationships for each position or group of like positions.
7. **Volunteers and interns.** A Facility engaging volunteers and interns must:

- a. Complete background checks on all volunteers and interns as required in Section 8(B) and 8(C);
 - b. Routinely supervise volunteers by a paid staff member;
 - c. Orient and train volunteers in the philosophy of the Facility and the needs of youth and methods of meeting those needs;
 - d. Perform character and reference checks comparable to those for employment applicants for volunteers and interns;
 - e. Provide a job description for each volunteer or intern position;
 - f. Make a copy of this rule available to each volunteer and intern; and
 - g. Require written acknowledgement that they have read and understand the policies, and retain the written acknowledgment in the volunteer or intern's records.
8. **Supervision of staff.** The Facility must assign a supervisor to each staff member. Supervisors must meet with assigned staff, individually or in a group setting, at least one hour per month, and document the supervisory session(s).
 9. **Staff evaluation.** Within 90 days of date of hire, and annually thereafter, all personnel must participate in an evaluation of job performance by an assigned supervisor. Each staff member must be provided with a copy of their evaluation.

B. COMPREHENSIVE BACKGROUND CHECKS

1. **Individuals required to undergo comprehensive background checks.** All staff members of a Facility are subject to a comprehensive background check.
2. **Individuals not required to undergo comprehensive background checks.** Comprehensive background checks are not required for delivery persons, contractors performing maintenance or repairs, or waste removal persons.
3. **Components of a comprehensive background check.** The following registries, repositories, and databases must be checked for each staff member:
 - a. National Crime Information Center (NCIC) National Sex Offender Registry and Federal Bureau of Investigation (FBI) fingerprint check using Next Generation Identification.
 - b. In the State where the individual resides: State Child Abuse and Neglect registry/ database, State Bureau of Identification (SBI) or comparable State agency's crime repository with fingerprints, and State Sex Offender Registry.
 - c. State Child Abuse and Neglect registry/ database check for each state where the individual has resided within the preceding five years.
4. **Process required for fingerprint based criminal background check.**
 - a. Staff members must consent to having their fingerprints taken.
 - b. Facilities must email ResidentialCheck.DHHS@maine.gov and provide the name and date of birth of the staff member after fingerprinting has occurred. The Background Check Unit (BCU)

within the Office of Child and Family Services will upon receipt of the criminal history report, make a determination regarding eligibility status and will email the status of “eligible” or “ineligible” to the Facility. The BCU will mail via United States Postal Service an official letter of eligibility to the Facility representative and directly to the staff member.

5. Process required for Child Abuse and Neglect Check and Sex Offender Registries.

- a. Facilities must submit their request and payment directly through the online portal www.maine.gov/online/cpsbackgroundcheck. The results will be emailed back to the requestor. When there is an open/pending child abuse or neglect investigation regarding the staff member for whom a request has been made, the request shall be held until final determination has been made.
- b. As applicable, the Facility must request a search of all child abuse and neglect registries, repositories, and databases for each State where the individual has resided within the previous five (5) years.
- c. Facilities must request national and state sex offender registry checks.

6. Facility Responsibility.

- a. A staff member must not be hired or begin working until the Facility receives notice that the staff member is eligible for hire based on returned criminal history and in-state child abuse and neglect checks and the staff member is not known as a substantiated abuser of a child.
- b. When an out-of-state child abuse and neglect registry check has been requested and the agency has not yet received results but has received eligible results from criminal history and in-state child abuse and neglect searches, the prospective staff member may be hired. A substantiated finding of Child Abuse or Neglect from an out of state registry check is a disqualifier which results in the status of ineligible for further employment.
- c. When a current staff member becomes ineligible either at the five-year renewal or at any time during employment due to a new disqualifier, the Facility may no longer employ the staff member.

7. Frequency of comprehensive background checks and agency record retention. All components of the comprehensive background check must be completed at least once every five (5) years for each staff member. The Facility must keep a current record of all employee background check results on site and available for immediate inspection by the Department. If an employee ends employment with one Facility and begins employment with another, another comprehensive background check must be completed.

8. Ineligible for Employment. An individual is ineligible to work in a Facility if any of the following information is found in the individual’s comprehensive background check:

- a. Registration on a State or National Sex Offender Registry, or information that the individual is required to be listed on such a registry;
- b. A substantiated finding of Child Abuse or Neglect by the Department or any comparable agency of another state;
- c. Felony conviction for any of the following crimes:
 - i. Child abuse or neglect;

- ii. Spousal abuse;
 - iii. A crime against children, including child pornography;
 - iv. A crime involving violence (including rape, sexual assault, or homicide);
 - v. Physical assault or battery within the preceding five years; or
 - vi. A drug-related offense committed during the preceding five (5) years.
- d. An individual will be determined ineligible if they refuse to consent to a background check or knowingly make materially false statements in connection with such a background check.
9. **Discretionary background checks.** The Department may, at its discretion, request that a staff member sign a release authorizing the Department to conduct a background check with the SBI, the State's child abuse and neglect database, and the state sex offender registry.
10. **Comprehensive background check appeal rights.** If a staff member is ineligible due to the results of the background check, the Staff Member Letter of Eligibility will include the basis for the individual's ineligibility along with information regarding right to appeal.
- a. **Factual accuracy of information.** An individual who is determined ineligible because of disqualifying information found in one of the registries, repositories, and/or databases searched and who disputes the factual accuracy of the disqualifying information may request review of the disqualifying information directly by the agency that maintains that registry, repository, or database. A staff member who prevails in their appeal process must obtain a Staff Member Letter of Eligibility.
 - b. **Substantiation of Child Abuse or Neglect.** Individuals who receive a letter that they are ineligible due to a substantiated finding of Child Abuse or Neglect in Maine by the Department may request an appeal pursuant to the 10-148 Code of Maine Rules Chapter 201. Listing on another state's child abuse and neglect registry must be appealed pursuant to that state's laws and procedures. A staff member who prevails in their appeal process must obtain a Staff Member Letter of Eligibility.

C. OTHER REQUIRED BACKGROUND CHECKS

1. **Maine Bureau of Motor Vehicles.** Facilities must check the driving record of staff members who are expected, or reasonably anticipated, to operate a motor vehicle to transport youth. Staff members must have the proper license to drive the class of motor vehicles being used.
- a. The following offenses disqualify a staff member from driving youth for a period of five years from date of conviction:
 - i. Motor vehicle-related conviction, accident, or moving violation related to operating under the influence of intoxicants;
 - ii. Operating while license is suspended or revoked;
 - iii. Driving to endanger;
 - iv. Refusing to stop for a law enforcement officer; or
 - v. Criminal speeding.

- b. The following offenses disqualify a staff member from driving youth, whenever committed:
 - i. Motor vehicle violation resulting in death;
 - ii. Aggravated refusing to stop for a law enforcement officer; or
 - iii. Criminal homicide in operation of a motor vehicle.
2. **Professional Registries.** Facilities must check for any disciplinary action by applicable licensing boards and listing or annotation on applicable registries for each staff member.
3. **Adult Protective Check.** Facilities must request the Department's Office of Aging and Disability Services search its records to determine whether any staff member has been substantiated for abuse, neglect or exploitation of an incapacitated or dependent adult. Facilities must submit the request via email to APSCheck.DHHS@maine.gov. If the Facility employs a staff member with a substantiated finding of abuse, neglect, or exploitation of an incapacitated or dependent adult, the Facility must determine that youth in the care of the Facility would not be endangered by the staff members employment and must document the rationale for this decision in the employee's personnel record. Facilities must comply with this provision within 6 months of the effective date of this rule for all current staff members.

D. PERSONNEL TRAINING

1. **Staff orientation and training.** The Facility must ensure that staff members participate in orientation, training and development that provide information necessary to effectively perform their job responsibilities; promote opportunities for learning and skill enhancement; and promote awareness of and sensitivity to the cultural backgrounds and needs of the population served. Training must be done by individuals qualified by education, training and experience.
2. **Orientation training requirements.** Any other person (including volunteers and interns) who has direct access to youth must be oriented and trained in at least the following areas. Multiple topics may be covered in the same training:
 - a. The Facility's policies and standard operating procedures;
 - b. Emergency and safety procedures;
 - c. Bloodborne pathogens including universal precautions and infection control procedures;
 - d. Effective crisis intervention techniques, including recognition of suicide warning signs;
 - e. Recognizing, identifying, and reporting child abuse and neglect; and
 - f. Confidentiality.
3. **Annual training requirements.** During each year of full-time employment staff members must receive training in at least the following areas. Multiple topics may be covered in the same training:
 - a. Bloodborne pathogens, including universal precautions and infection control procedures;
 - b. Positive youth development;
 - c. The Facility's policies and standard operating procedures;

- d. Effective crisis intervention techniques, including recognition of suicide warning signs;
 - e. Medication administration, including psychotropic medications and Naloxone;
 - f. Recognizing, identifying, and reporting child abuse and neglect;
 - g. Licensing rules pertinent to daily operation of the Facility;
 - h. Emergency and safety procedures as well as the Facility's emergency preparedness plan;
 - i. Professionalism and boundaries;
 - j. Confidentiality;
 - k. Sexual orientation and expression;
 - l. Cultural competency and diversity;
 - m. Effects of alcohol and drug use;
 - n. Impact of trauma on homeless youth;
 - o. Human trafficking; and
 - p. Active attack response including active shooter.
4. **Biennial training requirements.** At least one direct care worker per shift per building must have a valid, current infant, child, and adult CPR and first aid certificate.
5. **Training record.** A record of orientation and training must be maintained for each staff member, intern, and volunteer. The training record must include the date, title, and name of trainer. A description of training content must be available for review by the Department.

SECTION 9. COMPLIANCE AND ENFORCEMENT

A. STATEMENT OF DEFICIENCIES & VIOLATION IDENTIFICATION LETTER

1. **Statement of deficiencies (SOD).** The Department issues a SOD when it determines that a violation of this rule or applicable statutes has occurred.
2. **Violation Identification Letter.** The Department may issue a Violation Identification Letter for past noncompliance found in a complaint investigation and/or licensing inspection in which a Facility has already taken steps to correct deficiencies and does not require a plan of correction.

B. PLAN OF CORRECTION

A Facility is required to submit an acceptable plan of correction (POC) within 10 business days of receipt of a SOD. The POC must:

1. Address the issue that led to the deficiency and include a Facility-wide plan to ensure full regulatory compliance throughout the Facility;
2. Include the procedure for implementing the POC for the specific deficiency cited, and the anticipated date of completion;
3. Provide for monitoring to ensure that the POC is effective and the specific deficiency cited remains corrected and/or in compliance with the regulatory requirements, including the timeframe for monitoring to ensure continued compliance after the date of completion; and
4. Include the name and title of the person responsible for implementing the POC.

C. ORDER OF CORRECTION

When the Department determines that a Facility failed to provide an acceptable POC, or fails to implement its Department-approved POC, the Department may issue a written Order of Correction to the Facility.

1. **Content of orders.** The Department's written Order of Correction will notify the Facility at least 15 days in advance of the deadline noted within the Order of Correction. An Order of Correction must be in writing and must include an identification of the rules violated, reasons for citing the violation, and the period of time within which the violations must be corrected.
2. Orders of Correction will be sent to the Facility, and a copy will be sent to the governing body of the Facility.

Nothing in this subsection prevents the Department from taking any other enforcement actions for violations of this rule, or applicable Maine statute, as provided for herein or as authorized under Maine law.

D. CONDITIONAL LICENSE

If, at the expiration of a full or provisional license, or, during the term of a full license, the Facility fails to comply with applicable rules and, in the judgment of the Commissioner or the Commissioner's designee, the best interest of the public would be served, the Department may issue a Conditional License. The term of the Conditional License must not exceed one year, or the remaining period of the previous full license, whichever the Department determines appropriate based on the laws and rules violated.

1. The Notice of Conditional License will include an Order of Correction that must specify what corrective actions must be taken by the Facility during the term of the Conditional License.
2. The Notice of Conditional License may include amendment or modification of the license, requiring a reduction in licensed capacity or cessation of new admissions for a specified period of time or the term of the Conditional License.

E. VOIDING A CONDITIONAL LICENSE

Failure to meet the conditions required of the Facility or failure to maintain substantial compliance with this rule while operating with a Conditional License may result in the Department issuing a Void of the Conditional License or denying an application for a full license.

F. REFUSAL TO ISSUE OR RENEW A LICENSE

The Department may refuse to issue or renew a license when it finds any of the following:

1. Misrepresentation, materially incorrect, or insufficient information on the application; or
2. Failure to comply with applicable law and rules.

G. REVOCATION OR SUSPENSION OF A LICENSE

1. **Non-emergency suspension or revocation.** The Department may seek to suspend or revoke a license for violation of applicable law and rules; committing, permitting, aiding or abetting any illegal practices in the operation of the Facility; or conduct or practices detrimental to the welfare of youth in the Facility or receiving services from the Facility by filing a complaint with the Maine District Court as provided in the *Maine Administrative Procedure Act*, 5 M.R.S. Ch. 375.
2. **Emergency suspension, revocation, or refusal to renew without hearing.** Whenever, upon investigation, the Department finds conditions that, in the opinion of the Department, immediately jeopardize the health or physical safety of youth in a Facility or receiving services from the Facility, the Facility has failed to respond appropriately to the known risk, and seeking a suspension or revocation of the license (or refusal to renew the license) from the District Court or at an administrative hearing would fail to adequately respond to the known risk, the Department may revoke, suspend, or refuse to renew a license without a hearing for a period not to exceed 30 days.
3. **Emergency revocation or suspension of license.** Whenever, upon investigation, conditions are found that, in the opinion of the Department, pose an immediate threat to the health, safety or welfare of youth in a Facility or receiving services from the Facility, the Department may file a complaint with the Maine District Court requesting an emergency suspension of the Facility's license, in accordance with applicable law. 4 M.R.S. §184(6).

H. APPEALS

Appeals are limited to appeals contending that a decision by the Department misapplies applicable laws, procedures, or rules.

1. The appellant must address a request for an administrative hearing in accordance with the instructions provided in any action taken by the Department that is subject to the right of appeal.
2. The request must state the specific issue(s) being appealed.

3. The request must be made within 30 days of receipt of notice of an action subject to the right of appeal.
4. The following actions are subject to the right of appeal:
 - a. Issuance of conditional license;
 - b. Amendment or modification of a license;
 - c. Voiding of a conditional license;
 - d. Refusal to issue or renew a license; or
 - e. The denial of a waiver request.
5. Actions subject to the right to appeal will be stayed until the Department makes a final agency decision, unless the license is suspended under 9(G).

I. LEGAL GUARDIAN NOTIFICATION OF LICENSING ACTION

The Facility must notify the legal guardian of each youth within 10 days of receiving any of the following: issuance of conditional license; amendment or modification of a license; voiding of a conditional license, or refusal to renew a license. Notification is required regardless of the Facility's intent to appeal. The Facility must inform the legal guardians of a child for whom admission is under consideration when in appeal status or operating on a conditional license.

STATUTORY AUTHORITY

22 M.R.S. §§ 42(1), 4099-E, 4099-G, 7802(7); P.L. 2021, ch. 98.

HISTORY

10-148 C.M.R. ch. 8, *Rules for the Licensure of Shelter for Homeless Children*. Repealed
10-148 C.M.R. ch. 9, *Rules for the Licensure of Emergency Shelters for Children*. Repealed

10-148 C.M.R. ch. 37 (new), *Emergency Children's Shelters, Shelter for Homeless Children, and Transitional Living Programs that are Children's Homes Licensing Rule*. Replaces 10-148 C.M.R. chs. 8 & 9.