

## **Title 9. Family Law**

### **Chapter III. Child Welfare Review Board, Department of Human Services**

#### **Subchapter A. Generally**

#### **Part 31. Minimum Licensing Standards for Child Welfare Agencies — Residential**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

##### **"INTRODUCTION**

The Child Welfare Licensing Act (Arkansas Code Annotated § 9-28-401 et. seq.) is the legal authority under which the Child Welfare Agency Review Board establishes minimum licensing standards for child welfare agencies, as defined under the statute."

#### **Subpart 1. Introduction**

##### **9 CAR § 31-101. Definitions.**

As used in this part:

(1) "Adoption agency" means a child placement agency that places, plans for, or assists in the placement of an unrelated minor in a household of one (1) or more persons who have been approved to accept a child for adoption;

(2) "Adoptive home" means a household of one (1) or more persons that has been approved by a licensed child placement agency to accept a child for adoption;

(3) "Adverse action" means any petition by the Department of Human Services before the Child Welfare Agency Review Board to take any of the following actions against a licensee or applicant for a license:

(A) Revocation of license;

(B) Suspension of license;

(C) Conversion of license from regular or provisional status to probationary status;

- (D) Imposition of a civil penalty;
- (E) Denial of application; or
- (F) Reduction of licensed capacity;

(4) "Alternative compliance" means approval from the Child Welfare Agency Review Board to allow a licensee to deviate from the letter of a rule provided that the licensee has demonstrated how an alternate plan of compliance will meet or exceed the intent of the rule;

(5) "Board" means the Child Welfare Agency Review Board;

(6) "Boarding school" means an institution that:

- (A) Is operated solely for educational purposes; and
- (B) Meets each of the following criteria:

(i) The institution is in operation for a period of time not to exceed the minimum number of weeks of classroom instruction required of schools accredited by the Department of Education;

(ii) The children in residence must customarily return to their family homes or legal guardians during school breaks and must not be in residence year-round, except that this provision does not apply to students from foreign countries; and

(iii) The parents of children placed in the institution retain custody, planning, and financial responsibility for the children;

(7) "Child" means a person who is:

(A) From birth to eighteen (18) years of age; or

(B) Adjudicated dependent-neglected, dependent, or a member of a family in need of services before eighteen (18) years of age and for whom the juvenile division of a circuit court retains jurisdiction under the Arkansas Juvenile Code of 1989, Arkansas Code § 9-27-301 et seq.;

(8) "Child placement agency" means a child welfare agency, not including any person licensed to practice medicine or law in the State of Arkansas, that engages in any of the following activities:

(A) Places a child in a foster home, adoptive home, or any type of facility licensed or exempted by this part;

(B) Plans for the placement of a child into a foster home, adoptive home, or any type of facility licensed or exempted by this part;

(C) Assists the placement of a child in a foster home, adoptive home, or any type of facility that is licensed or exempted by this part; or

(D) Places, plans, or assists in the placement of a child victim of human trafficking in a home or any type of shelter or facility;

(9) "Child welfare agency" means any person, corporation, partnership, voluntary association, or other entity or identifiable group of entities having a coordinated ownership of controlling interest, whether established for profit or otherwise, that engages in any of the following activities:

(A) Receives a total number of six (6) or more unrelated minors for care on a twenty-four-hour basis for the purpose of ensuring that the minors receive care, training, education, custody, or supervision, whether or not there are six (6) or more children cared for at any single physical location;

(B) Places any unrelated minor for care on a twenty-four-hour basis with persons other than themselves;

(C) Plans for or assists in the placements described in subdivision (8)(B) of this section; or

(D) Places, plans, or assists in the placement of a child victim of human trafficking in a home or any type of shelter or facility;

(10) "Church-related exemption" means:

(A) Any church or group of churches that are exempt from the state income tax levied by the Income Tax Act of 1929, Arkansas Code § 26-51-101 et seq., when operating a child welfare agency, shall be exempt from obtaining a license to operate the facility by receipt from the Child Welfare Agency Review Board of written request therefor, together with the written verifications;

(B) A written request shall be made by those churches desiring exemption to the Child Welfare Agency Review Board, which is mandated under the authority of this part to license all child welfare agencies;

(C) In order to maintain an exempt status, the child welfare agency shall

state every two

(2) years in written form, signed by the persons in charge, that the agency:

(i) Has met the fire, safety, and health inspections; and

(ii) Is in substantial compliance with published standards that similar nonexempt child welfare agencies are required to meet; and

(D) Visits to review and advise exempt agencies shall be made as deemed necessary by the Child Welfare Agency Review Board to verify and maintain substantial compliance with all published standards for nonexempt agencies;

(11) "Emergency child care" means any residential childcare facility that provides care to children on a time-limited basis, not to exceed ninety (90) days;

(12) "Emergency family style care" means any child welfare agency that provides twenty-four-hour custodial care in a homelike setting for six (6) or more unrelated children or a child victim of human trafficking on an emergency basis, not to exceed ninety (90) days;

(13)(A) "Emergency residential childcare facility" means any child welfare agency that provides twenty-four-hour custodial care for six (6) or more unrelated children or a child victim of human trafficking on an emergency basis, not to exceed ninety (90) days.

(B) Any child admitted as an emergency placement shall be:

(i) Designated as such; and

(ii) Discharged within ninety (90) days;

(14)(A) "Exempt child welfare agency" means any person, corporation, partnership, voluntary association, or other entity, whether established for profit or otherwise, that otherwise fits the definition of a child welfare agency but that is specifically exempt from the requirement of obtaining a license under this part.

(B) Those agencies specifically exempt from the license requirement are:

(i) A facility or program owned or operated by an agency of the United States Government;

(ii)(a) Any agency of the State of Arkansas that is statutorily authorized to administer or supervise child welfare activities.

(b) In order to maintain exempt status, the state child welfare agency shall state every two (2) years in written form, signed by the persons in charge, that their agency is in substantial compliance with published state agency child welfare standards.

(c) Visits to review and advise exempt state agencies shall be made as deemed necessary by the Child Welfare Agency Review Board to verify and maintain substantial compliance with the standards;

(iii) A facility or program owned or operated by or under contract with the Department of Corrections;

(iv) A hospital providing acute care licensed pursuant to Arkansas Code § 20-9-201 et seq.;

(v) Any facility governed by the Department of Human Services State Institutional System Board or its successor;

(vi) Human development centers regulated by the Board of Developmental Disabilities Services pursuant to the Arkansas Intellectual and Developmental Disabilities Act, Arkansas Code § 20-48-201 et seq.;

(vii) Any facility licensed as a family home, pursuant to the Location Act for Community Homes for Individuals with Intellectual and Developmental Disabilities, Arkansas Code § 20-48-601 et seq.;

(viii) Any boarding school, as defined in this section;

(ix) Any temporary camp, as defined in this section;

(x)(a) Any:

(1) State-operated facility to house juvenile delinquents; or

(2) Serious offender program facility operated by a state designee to house juvenile delinquents.

(b) Those facilities shall be subject to program requirements modeled on nationally recognized correctional facility standards that shall be developed, administered, and monitored by the Division of Youth Services of the Department of Human Services;

(xi) Any child welfare agency operated solely by a religious

organization that elects to be exempt from licensing and that complies within the conditions of the exemption for church-operated agencies as set forth in this part;

(xii) The Division of Developmental Disabilities Services; and

(xiii) Any developmental disabilities services waiver provider who is licensed under Arkansas Code § 20-48-208 or the Location Act for Community Homes for Individuals with Intellectual and Developmental Disabilities;

(15) "Foster care placement agency" means a child placement agency that places, plans for, or assists in the placement of:

(A) An unrelated minor in a private residence of one (1) or more family members for care and supervision on a twenty-four-hour basis; or

(B) A child victim of human trafficking in a home;

(16)(A) "Foster home" means a private residence of one (1) or more family members that receives from a child placement agency any child who is unattended by a parent or guardian in order to provide care, training, education, or supervision on a twenty-four-hour basis, not to include adoptive homes.

(B) "Foster home" does not include a home suspended or closed by a child placement agency;

(17) "Independent living" means a child welfare agency that provides specialized services in adult living preparation in an experiential homelike setting for persons sixteen (16) years of age or older;

(18) "Independent living family style care" means a child welfare agency that provides specialized services in adult living preparation in an experiential homelike setting for persons sixteen (16) years of age or older;

(19) "Minimum standards" means those rules, as established by the Child Welfare Agency Review Board, that set forth the minimum acceptable level of practice for the care of children by a child welfare agency;

(20)(A) "Placement residential" means a child placement agency that places, plans for, or assists in the placement of:

(i) An unrelated minor into a residential childcare facility; or

(ii) A child victim of human trafficking in any type of shelter or facility.

(B) The agency may be licensed for any or all types of licenses, depending on the types of services it provides;

(21)(A) "Probationary" means a type of license issued to an agency that has not maintained compliance with minimum licensing standards, but the Child Welfare Agency Review Board believes that compliance can be restored and subsequently maintained.

(B) This license may be issued for up to one (1) year, at the discretion of the Child Welfare Agency Review Board;

(22) "Provisional foster home" means a foster home opened for no more than six (6) months by the Division of Children and Family Services of the Department of Human Services for a relative or fictive kin of a child in the custody of the Division of Children and Family Services of the Department of Human Services after it:

(A) Conducts a health and safety check, including a Child Maltreatment Central Registry check and a criminal background check, or a check with local law enforcement, of the relative's home; and

(B) Performs a visual inspection of the home of the relative to verify that the relative and the home will meet the standards for opening a regular foster home;

(23)(A) "Psychiatric residential treatment facility" means a residential childcare facility in a nonhospital setting that provides a structured, systematic, therapeutic program of treatment, under the supervision of a psychiatrist, for children who are emotionally disturbed and in need of daily nursing services, psychiatrist's supervision, and residential care, but who are not in an acute phase of illness requiring the services of an inpatient psychiatric hospital.

(B) A psychiatric residential treatment facility is a "regulated facility" under Arkansas Code § 9-28-1301(2);

(24) "Relative" means a person within the fifth degree of kinship by virtue of blood or adoption;

(25) "Religious organization" means a church, synagogue, mosque, or association of same whose purpose is to support and serve the propagation of truly held religious beliefs;

(26) "Residential childcare facility" means any child welfare agency that:

(A) Provides care, training, education, custody, or supervision on a twenty-four-hour basis for six (6) or more unrelated children, excluding foster homes that have six (6) or more children who are all related to each other but who are not related to the foster parents; or

(B) Receives a child victim of human trafficking in any type of shelter or facility;

(27) "Residential family style care" means any child welfare agency that:

(A) Provides care, training, education, custody, or supervision in a homelike setting on a twenty-four-hour basis for six (6) or more unrelated minors; or

(B) Receives a child victim of human trafficking in any type of shelter or facility;

(28)(A) "Sexual rehabilitative program" means a treatment program that offers a specific and specialized therapeutic program for children with sexually maladaptive behaviors.

(B) A licensed sexual rehabilitative program may be in a:

(i) Residential childcare facility;

(ii) Therapeutic foster care home; or

(iii) Psychiatric residential treatment facility;

(29) "Special consideration" means approval from the Child Welfare Agency Review Board to allow a licensee to deviate from the letter of a rule if the licensee has demonstrated that the deviation:

(A) Is in the best interest of the children; and

(B) Does not pose a risk to persons served by the licensee;

(30)(A) "Substantial compliance" means compliance with all essential standards necessary to protect the health, safety, and welfare of the children in the care of the child welfare agency.

(B) Essential standards include, without limitation, those relating to issues involving:

(i) Fire;

- (ii) Health;
- (iii) Safety;
- (iv) Nutrition;
- (v) Discipline;
- (vi) Staff-to-child ratio; and
- (vii) Space;

(31) "Temporary camp" means any facility or program providing twenty-four-hour care or supervision to children that meets the following criteria:

(A) The facility or program is operated for recreational, educational, or religious purposes only;

(B) No child attends the program more than forty (40) days in a calendar year; and

(C) The parents of children placed in the program retain custody, planning, and financial responsibility for the children during placement;

(32)(A) "Therapeutic foster care" means any child placement agency that places, plans for, or assists in the placement of an unrelated minor or a child victim of human trafficking in a therapeutic foster home.

(B) Therapeutic foster care is intensive therapeutic care for children provided in specially trained family homes supported by licensed mental health professionals, as recognized by the Arkansas Medicaid Program.

(C) A therapeutic foster care program is a family-based services delivery approach providing individualized treatment for:

- (i) Children;
- (ii) Youth; and
- (iii) Their families.

(D) Treatment is delivered through an integrated set of services with key interventions and supports that are provided by therapeutic foster parents who are trained, supervised, and supported by qualified program staff.

(E) Therapeutic foster care services shall be provided:

- (i) In a separately identified program of a larger agency; or

(ii) By an independent agency;

(33)(A) "Therapeutic foster care — sexual rehabilitative program" means a treatment program that offers a specific and specialized therapeutic program for children with sexually maladaptive behaviors.

(B) A licensed sexual rehabilitative program may be in a:

(i) Residential childcare facility;

(ii) Therapeutic foster care home; or

(iii) Psychiatric residential treatment facility;

(34) "Transitional living" means any child welfare agency that provides specialized services in adult living preparation in a structured setting for persons eighteen (18) years of age or older who have been admitted into the agency's residential program prior to eighteen (18) years of age; and

(35) "Unrelated minor" means a child who is not:

(A) Related by blood, marriage, or adoption to the owner or operator of the child welfare agency; and

(B) A ward of the owner or operator of the child welfare agency pursuant to a guardianship order issued by a court of competent jurisdiction.

**Authority.** Arkansas Code § 9-28-403.

### **9 CAR § 31-102. Child Welfare Agency Review Board.**

(a) The Child Welfare Agency Review Board shall promulgate and publish rules setting minimum standards governing the granting, revocation, refusal, conversion, and suspension of licenses for:

(1) A child welfare agency; and

(2) The operation of a child welfare agency.

(b) The board may consult with such other agencies, organizations, or individuals as it shall deem proper.

(c) The board may amend the rules promulgated pursuant to this section from time to time in accordance with the rule promulgation procedures in the Arkansas

Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(d) The board shall promulgate rules that:

(1) Promote the health, safety, and welfare of children in the care of a child welfare agency;

(2) Promote safe and healthy physical facilities;

(3) Ensure adequate supervision of the children by capable, qualified, and healthy individuals;

(4) Ensure appropriate educational programs and activities for children in the care of a child welfare agency;

(5) Ensure adequate and healthy food service;

(6) Include procedures for the receipt, recordation, and disposition of complaints regarding allegations of violations of:

(A) This part;

(B) The rules promulgated under the Child Welfare Agency Licensing Act, Arkansas Code § 9-28-401 et seq.; or

(C) Child maltreatment laws;

(7) Include procedures for the assessment of child and family needs and for the delivery of services designed to enable each child to grow and develop in a permanent family setting;

(8) Ensure that criminal record checks and Child Maltreatment Central Registry checks are completed on owners, operators, employees, volunteers, foster parents, adoptive parents, and other persons in the homes, as set forth in this part;

(9) Require the compilation of reports and making those reports available to the Division of Children and Family Services when the board determines it is necessary for compliance determination or data compilation;

(10) Ensure that a child placement agency:

(A) Treats clients seeking or receiving services in a professional manner, as defined by rules promulgated pursuant to this section; and

(B) Provides clients seeking or receiving services from a child placement agency that provides adoption services with the phone number and address of the Child

Welfare Agency Licensing Unit where complaints can be lodged;

(11) Require that all child welfare agencies that provide adoption services fully apprise in writing all clients involved in the process of adopting a child of the agency's adoption program or services, including all possible costs associated with the adoption program; and

(12) Establish rules governing retention of licensing records maintained by the division.

(e) A licensed child welfare agency may adopt and apply internal operating procedures that meet or exceed the minimum standards required by the board.

(f) The Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq., shall apply to all proceedings brought to the board under this part, except that the following provisions shall control during adverse action hearings to the extent that they conflict with the Arkansas Administrative Procedure Act:

(1) All parties to an adverse action shall be entitled to engage in and use formal discovery as provided for in Rules 26, 28, 29, 30, 31, 32, 33, 34, and 36 of the Arkansas Rules of Civil Procedure including:

(A) Requests for admission;

(B) Request for production of documents and things;

(C) Written interrogatories; and

(D) Oral and written depositions; and

(2) All evidentiary rulings in an adverse action hearing shall be governed by the Arkansas Rules of Evidence with respect to the following types of evidence:

(A) The requirements of personal knowledge of a witness as required by Rule 602;

(B) The admissibility of character evidence as set forth by Rules 608 and 609;

(C) The admissibility of character evidence as set forth by Rules 701 – 703; and

(D) The admissibility of hearsay evidence as set forth by Rules 801 – 806.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-103. Residential agencies requiring licenses.**

Any person, organization, corporation, partnership, voluntary association, or other entity that provides care, training, education, custody, supervision for a total of six (6) or more unrelated minors on a twenty-four-hour basis, or receives a child victim of human trafficking in any type of shelter or facility, and is not otherwise exempt by the Child Welfare Agency Licensing Act, Arkansas Code § 9-28-401 et seq., requires a license.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-104. Residential types of licenses.**

**(a) Emergency residential childcare facility.**

(1) "Emergency residential childcare facility" means any child welfare agency that provides twenty-four-hour custodial care for six (6) or more unrelated children or a child victim of human trafficking on an emergency basis, not to exceed ninety (90) days.

(2) Any child admitted as an emergency placement shall be:

(A) Designated as such; and

(B) Discharged within ninety (90) days.

**(b) Emergency family style care.** "Emergency family style care" means any child welfare agency that provides twenty-four-hour custodial care in a homelike setting for six (6) or more unrelated children or a child victim of human trafficking on an emergency basis, not to exceed ninety (90) days.

**(c) Residential childcare facility.** "Residential childcare facility" means any child welfare agency that provides care, training, education, custody, or supervision on a twenty-four-hour basis for six (6) or more unrelated minors.

**(d) Residential family style care.** "Residential family style care" means any child welfare agency that provides care, training, education, custody, or supervision in a

homelike setting on a twenty-four-hour basis for six (6) or more unrelated minors or a child victim of human trafficking.

**(e) Psychiatric residential treatment facility.**

(1) "Psychiatric residential treatment facility" means a residential childcare facility in a nonhospital setting that provides a structured, systematic, and therapeutic program of treatment under the supervision of a physician:

- (A) Licensed by the Arkansas State Medical Board; and
- (B) Experienced in the practice of psychiatry.

(2) It is for children who are emotionally disturbed and in need of daily nursing services, physician's supervision, and residential care, but who are not in an acute phase of illness requiring the services of an inpatient psychiatric hospital.

**(f) Sexual rehabilitative program.**

(1) "Sexual rehabilitative program" means a treatment program that offers a specific and specialized therapeutic program for children with sexually maladaptive behaviors.

(2) A licensed sexual rehabilitative program may be in a:

- (A) Residential childcare facility;
- (B) Therapeutic foster care home; or
- (C) Psychiatric residential treatment facility.

(3) If a program is licensed as this type of setting and is operated in a psychiatric residential treatment facility, it must comply with the standards found in 9 CAR § 31-1001 et seq. and 9 CAR § 31-1101 et seq.

**(g) Independent living.** "Independent living" means a child welfare agency that provides specialized services in adult living preparation in an experiential setting for persons sixteen (16) years of age or older.

**(h) Independent living family style care.** "Independent living family style care" means a child welfare agency that provides specialized services in adult living preparation in an experiential homelike setting for persons sixteen (16) years of age or older.

**(i) Transitional living.** "Transitional living" means a child welfare agency that

provides specialized adult living preparation services in a structured setting for persons eighteen (18) years of age or older who have been admitted into the agency's residential program prior to eighteen (18) years of age.

(j) An agency may be licensed for any or all types of licenses, depending on the types of services it provides.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-105. License status.**

**(a) Child Welfare Agency Review Board duties.**

(1) The Child Welfare Agency Review Board shall issue all licenses to child welfare agencies upon a majority vote of members present during each properly called board meeting at which a quorum is present.

(2) The Child Welfare Agency Review Board shall have the power to deny an application to operate a child welfare agency or to revoke or suspend a previously issued license to operate a child welfare agency.

(3) The Child Welfare Agency Review Board may also issue letters of reprimand or caution to a child welfare agency.

(4) The Department of Human Services may petition the Child Welfare Agency Review Board to deny, suspend, or revoke the regulated facility's license on the basis of any adverse action imposed by the department.

(5) Any revocation of a license, suspension of a license, or denial of application for a license shall be effective when made.

**(b) Department duties (Placement and Residential Licensing Unit).** For psychiatric residential treatment facilities, the department, through the Placement and Residential Licensing Unit, is authorized to impose the following adverse actions:

(1) Issue letters of reprimand or caution;

(2) Require a corrective action plan;

(3) Impose civil penalties of up to two thousand five hundred dollars (\$2,500) per violation, with each day of noncompliance and each client injured as a result of

noncompliance constituting a separate violation:

(A) If any person upon whom the department has levied a civil penalty fails to pay the civil penalty within sixty (60) days of the decision of the department to impose the penalty, the amount of the fine:

(i) Shall be considered to be a debt owed to the State of Arkansas;

and

(ii) May be collected by civil action; and

(B) Civil penalties collected under this section may be expended only for the purpose of providing technical assistance and training to regulated facilities;

(4) The department may petition the Child Welfare Agency Review Board to deny, suspend, or revoke the regulated facility's license on the basis of any adverse action imposed by the department; and

(5) For a regulated facility licensed under Arkansas Code § 20-9-201 et seq., the department may petition the State Board of Health to deny, suspend, or revoke the regulated facility's license on the basis of any adverse action imposed by the department under this section.

**(c) Provisional.**

(1) Provisional status is issued to a newly licensed agency for a one-year period, to give the agency time to demonstrate substantial compliance with minimum licensing standards.

(2) At the discretion of the Child Welfare Agency Review Board, a provisional license may be issued for up to one (1) additional year.

**(d) Probationary.**

(1) Probationary status is issued to an agency that has not maintained compliance with minimum licensing standards, but the Child Welfare Agency Review Board believes that compliance can be restored and subsequently maintained.

(2) This license may be issued for up to one (1) year at the discretion of the Child Welfare Agency Review Board.

**(e) Regular.**

(1) Regular status is issued either to:

(A) A previously licensed agency that continues to meet all minimum licensing standards; or

(B) An agency that meets all essential standards and has a favorable compliance history, which predicts full compliance with all standards within a reasonable time.

(2) A regular license shall remain open and effective until closed at the request of the agency or Child Welfare Agency Review Board action.

**(f) Suspended.**

(1) The Child Welfare Agency Review Board may act to suspend a license when an agency has failed to maintain compliance with minimum licensing standards, but the violations do not warrant revocation.

(2) A license may not be suspended for longer than one (1) year at a time.

(3) The Child Welfare Agency Review Board may issue a probationary or regular license when compliance is restored.

**(g) Closed.** The Child Welfare Agency Review Board may act to close a license when the agency requests that the license be closed.

**(h) Revoked.**

(1) The Child Welfare Agency Review Board may act to revoke a license when an agency has failed to maintain compliance with minimum licensing standards.

(2) The agency may not apply for a new license for at least one (1) year from the date of revocation.

**Authority.** Arkansas Code §§ 9-28-403, 9-28-405.

**9 CAR § 31-106. Status change.**

(a) After a Child Welfare Agency Review Board action, an amended license shall be issued any time there is:

(1) A change in the agency's program that affects the license type, status, capacity, or ages of children served;

(2) A name change; or

(3) An address change.

(b) A license to operate a child welfare agency shall apply only to the address and location stated on the application and license issued, and it shall be transferable from one (1) holder of the license to another or from one (1) place to another.

(c) Whenever ownership of a controlling interest in the operation of a child welfare agency is sold, the following procedures shall be followed:

(1) The seller shall notify the Division of Children and Family Services of the sale at least thirty (30) days prior to the completed sale;

(2) The seller shall remain responsible for the operation of the child welfare agency until such time as the agency is closed or a license is issued to the buyer;

(3) The seller shall remain liable for all penalties assessed against the child welfare agency that are imposed for violations or deficiencies occurring before the transfer of a license to the buyer;

(4) The buyer shall be subject to any corrective action notices to which the seller was subject; and

(5) The provisions of Arkansas Code § 9-28-407(a), including those provisions that regard obtaining licenses or permits from the Office of Long-Term Care and regarding obtaining any permits from the Health Services Permit Agency or the Health Services Permit Commission, shall apply in their entirety to the new owner of the child welfare agency.

(d) The child placement agency shall inform current and potential clients if:

(1) Its license has been suspended or revoked; or

(2) It has voluntarily surrendered its license.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-107. How to apply the standards.**

(a)(1) 9 CAR § 31-201 et seq. applies to all agencies.

(2) Subsequent subparts apply to specific types of residential agencies.

(3) The agency shall meet the license requirements of its agency category.

**(b) Special consideration.**

(1) The Child Welfare Agency Review Board may approve an agency's request for special consideration to allow a licensee to deviate from the letter of a rule if the licensee has demonstrated that the deviation:

(A) Is in the best interest of the children; and

(B) Does not pose a risk to persons served by the licensee.

(2) If the board grants a request for special consideration:

(A) The child welfare agency's practice as described in the request shall be the compliance terms under which the child welfare agency will be held responsible; and

(B) Violations of those terms shall constitute a rule violation.

(3) The board has authorized the managers and supervisors of the Child Welfare Agency Licensing Unit to make temporary rulings regarding special consideration requests when the best interest of a child requires an immediate decision, subject to final approval at the next regularly scheduled meeting of the board.

**(c) Alternative compliance.**

(1) The board may grant an agency's request for alternative compliance upon a finding that the agency does not meet the letter of a rule promulgated under the Child Welfare Agency Licensing Act, Arkansas Code § 9-28-401 et seq., but that the agency meets or exceeds the intent of that rule through alternative means.

(2) If the board grants a request for alternative compliance:

(A) The agency's practice as described in the request for alternative compliance shall be the compliance terms under which the agency will be held responsible; and

(B) Violations of those terms shall constitute a rule violation.

(3) The board has authorized the managers and supervisors of the Child Welfare Agency Licensing Unit to make temporary rulings regarding alternative compliance requests when the best interest of a child requires an immediate decision, subject to final approval at the next regularly scheduled meeting of the board.

(4)(A) Alternative compliance requests granted in the areas listed below shall

be time-limited and shall not exceed two (2) years in length.

(B) These alternative compliances shall be monitored on an ongoing basis for compliance and shall be reviewed by the board every two (2) years:

- (i) Staff-to-child ratio;
- (ii) Capacity;
- (iii) Sleeping arrangements; and
- (iv) Bathrooms.

**Authority.** Arkansas Code § 9-28-403.

## **Subpart 2. General Requirements**

### **9 CAR § 31-201. Applicable standards.**

The standards in this subpart apply to all agencies unless otherwise indicated.

**Authority.** Arkansas Code § 9-28-403.

### **9 CAR § 31-202. Applications and licensing procedure.**

(a) The owner or board shall prepare and furnish an application packet for a license that contains the following:

- (1) A completed application form;
- (2) A letter from the agency's board or owner, as applicable, authorizing a person to sign the application;
- (3)(A) A copy of the articles of incorporation, bylaws, and current board roster, if applicable, including names, addresses, and contact information of officers.
  - (B) Out-of-state agencies shall have legal authorization from the Secretary of State to do business in Arkansas;
- (4) A personnel list with verifications of qualifications and experience;
- (5)(A) Substantiation of the agency's financial soundness.
  - (B) This shall include without limitation a budget showing sufficient

resources to operate for a period of six (6) months, either with resources on hand or with projected revenue from verifiable sources.

(C) Verifiable letters of financial support and monthly bank account statements may be included to project income;

(6) Proof of general and professional liability insurance, does not apply to state agencies;

(7) A written description of the agency's program of care, including:

(A) Intake policies;

(B) Types of services offered; and

(C) A written plan for providing healthcare services to children in care;

(8) Fire inspection;

(9) Department of Health inspection, including food service inspection, septic or sewage inspection, and nonmunicipal water sources and general sanitation inspection, as applicable;

(10) Floor plan with room dimensions;

(11) Zoning approval, where applicable; and

(12) Any additional information requested by the licensing specialist to:

(A) Verify compliance with this part; and

(B) Make a recommendation regarding the granting of a license.

(b)(1) Once a completed application packet has been received, the Division of Children and Family Services shall complete a licensing study and recommendation within ninety (90) days.

(2) If a recommendation is not made within ninety (90) days, the applicant may appear before the Child Welfare Agency Review Board to request a license.

**Authority.** Arkansas Code § 9-28-403.

### **9 CAR § 31-203. Organization and administration.**

(a) The agency shall obtain a license before receiving:

(1) Six (6) or more children who are unrelated to the caregiver for care on a

twenty-four-hour basis; or

(2) A child victim of human trafficking in any type of shelter or facility.

(b) The purpose and mission of the agency, including treatment philosophy, services provided, and characteristics of children it is designed to serve, shall be stated in writing.

(c) The following policies of the agency shall be current and available to all employees of the agency and the licensing specialist:

(1) Personnel policies;

(2) Volunteer policy;

(3) Student intern policy;

(4) Admission policy;

(5) Intake policy;

(6)(A) Behavior management policy.

(B) Corporal punishment is prohibited for all residential licenses;

(7) Crisis management policy;

(8) Child maltreatment mandated reporter rule, according to Arkansas law, including procedures to ensure that alleged, suspected, or witnessed incidents of maltreatment are:

(A) Reported to the Child Abuse Hotline; and

(B) Documented as required by these or other applicable rule or laws;

(9) Child exploitation policy;

(10) Visitation policy;

(11)(A) Family therapy or therapeutic pass policy.

(B) Psychiatric only;

(12)(A) Admission health assessments policy.

(B) Psychiatric only;

(13)(A) Public safety policy.

(B) Sexual rehabilitative programs only; and

(14)(A) Target population and admission, exclusion, and discharge criteria policy.

(B) Sexual rehabilitative programs only.

(d) If cameras are used for security or surveillance, the agency shall have a written policy governing their use, including the following:

(1) Access to the live viewing or recordings is limited to:

(A) Persons approved by the administrator;

(B) Law enforcement;

(C) Division of Children and Family Services investigators;

(D) Division of Children and Family Services personnel as approved or designated by the Director of the Division of Children and Family Services; or

(E) Regulatory authorities;

(2) The placing authority and the child shall be informed regarding the use of cameras; and

(3) Cameras shall not be used to observe or record children while:

(A) Toileting;

(B) Bathing;

(C) Dressing; or

(D) Undressing.

(e) The agency shall be legally authorized to conduct business in Arkansas by state law and local ordinance.

(f) The agency shall provide copies of all programmatic licenses, certifications, and accreditations held by the agency.

(g) The agency shall meet all federal, state, and local laws and ordinances that apply to:

(1) Child welfare agencies; and

(2) The proper care of children in such facilities.

(h)(1) The owner or board of directors shall:

(A) Be responsible for operating the facility; and

(B) Have final responsibility to ensure that the facility meets licensing requirements.

(2) Names and addresses of board members shall be provided to the licensing

specialist annually.

(i) The agency shall maintain a current organizational chart showing the administrative structure of the organization.

(j) The agency shall maintain proof of current general and professional liability insurance.

(k) The agency shall notify the Child Welfare Agency Licensing Unit within five (5) days of any change of:

- (1) Administrator;
- (2) Social service director; or
- (3) Clinical director.

(l) The agency shall establish and follow written policies and procedures that meet or exceed this part.

(m)(1) Agencies applying for an Arkansas license shall provide proof that they are licensed in good standing in:

- (A) Their home state, if applicable; and
- (B) All other states where they are licensed.

(2) If an agency is being disciplined or sanctioned in another jurisdiction, the Child Welfare Agency Review Board shall be notified.

(n) Agencies licensed in Arkansas after January 18, 2002, shall have an office in Arkansas.

(o)(1) Agencies licensed in Arkansas shall maintain all required files for licensing review as needed.

- (2) They may choose to:
  - (A) Maintain these files in their offices in Arkansas; or
  - (B) Arrange to provide the required files to the licensing staff.

(p) Agencies licensed in Arkansas shall have a qualified person on call to supervise emergency services.

(q) A residential childcare facility license shall not be granted to an applicant to operate the facility, their own residence, or in a home owned and occupied by an employee of the agency.

(r) If electronic records are kept, these records shall be made available to the licensing specialist for purposes of monitoring and investigation.

(s) Any disciplinary action taken against the agency by another jurisdiction shall be reported to the Child Welfare Agency Licensing Unit.

(t)(1) The license shall be closed in good standing if an agency is inactive for one (1) year, unless the agency requests annually in writing that the license remains active.

(2) This request shall be approved by the Child Welfare Agency Review Board.

(u) If a facility has been inactive for more than six (6) months, the Child Welfare Agency Licensing Unit shall be notified before children are taken into care.

(v) If a facility becomes inactive, the Child Welfare Agency Licensing Unit shall be notified within thirty (30) days.

(w) The agency shall not permit, aid, or abet an unlicensed person to perform activities requiring a license.

(x) The agency shall not misrepresent the type or status of:

(1) Education;

(2) Training;

(3) Expertise;

(4) Licensure; or

(5) Professional affiliations.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-204. Child Maltreatment Central Registry and criminal record check.**

(a)(1) The agency shall conduct background checks, as required by Arkansas Code § 9-28-409 of the Child Welfare Agency Licensing Act, Arkansas Code § 9-28-401 et seq., using forms approved by the Child Welfare Agency Licensing Unit.

(2) Background checks conducted by or for other licensing authorities (examples include, but are not limited to, the Office of Long-Term Care or the Division of Developmental Disabilities Services) do not meet the requirement of this standard.

(b) The following persons in a child welfare agency shall be checked with the Child Maltreatment Central Registry in their state of residence, if available, any state of residence in which the person has lived for the past five (5) years, and in the person's state of employment, if different, for reports of child maltreatment:

- (1) Employees having direct and unsupervised contact with children;
- (2) House parents and each member of the household who is fourteen (14) years of age or older;
- (3) Volunteers, mentors, sponsors, and student interns having direct and unsupervised contact with children;
- (4) Owners having direct and unsupervised contact with children; and
- (5) Members of the agency's board of directors having direct and unsupervised contact with children.

(c) Persons required to have the Child Maltreatment Central Registry check shall repeat the check every two (2) years.

(d)(1) Any person found to have a record of child maltreatment shall be reviewed by the owner or administrator of the agency, in consultation with the Child Welfare Agency Review Board or its designee, to determine corrective action.

(2) Corrective action may include without limitation:

- (A) Counseling;
- (B) Training;
- (C) Probationary employment;
- (D) Nonselection for employment; or
- (E) Termination.

(e) The following persons in a child welfare agency shall be checked with the Identification Bureau of the Division of Arkansas State Police for convictions of offenses listed in Arkansas Code § 9-28-409:

- (1) Employees having direct and unsupervised contact with children;
- (2) Volunteers, mentors, sponsors, and student interns having direct and unsupervised contact with children;
- (3)(A) House parents, and each member of the household who is eighteen

(18) years of age or older.

(B) The house parents shall certify in writing annually whether or not household members fourteen through seventeen (14 – 17) years of age have criminal records;

(4) Owners having direct and unsupervised contact with children; and

(5) Members of the agency's board of directors having direct and unsupervised contact with children.

(f) Individuals required to submit to a criminal background check with the Identification Bureau of the Division of Arkansas State Police shall also complete a background check with the Federal Bureau of Investigation.

(g) All persons required to be checked with the Division of Arkansas State Police under this section shall repeat the check at a minimum of every five (5) years.

(h) Child Maltreatment Central Registry checks and Division of Arkansas State Police and Federal Bureau of Investigation criminal record checks shall be initiated within ten (10) days of employment.

(i) The agency shall provide a copy of the Federal Bureau of Investigation criminal record check form and the Division of Arkansas State Police criminal record check form to the Child Welfare Agency Licensing Unit upon initiation.

(j) The agency shall maintain on file evidence that background checks have been initiated as required and results of the completed checks.

(k) No person guilty of an excluded criminal offense pursuant to Arkansas Code § 9-28-409 shall be permitted to have direct and unsupervised contact with children, except as provided in the statute.

(l) A child welfare agency shall immediately notify the Child Welfare Agency Licensing Unit when an individual is found to have a record of an excluded criminal offense.

**Authority.** Arkansas Code § 9-28-403.

## **9 CAR § 31-205. General personnel requirements.**

All personnel employed on or after April 12, 1999, shall meet the following requirements:

(1) The agency, unless it is a psychiatric residential treatment facility, shall have an administrator who shall be responsible for the general management of the agency, possessing at least one (1) of the following qualifications (facilities refer to subdivision (2) of this section):

(A) A doctorate degree;

(B) A master's degree in:

(i) A human services field (child development, psychology, sociology, social work, guidance and counseling, divinity, or education);

(ii) Administration;

(iii) Business; or

(iv) A related field; or

(C) A bachelor's degree in a human services field, administration, business, or a related field, and at least two (2) years of work experience in a human services agency; or

(2) Psychiatric facilities require an administrator who shall be responsible for the general management of the agency, possessing either a doctorate degree or a master's degree in:

(A) A human services field (child development, psychology, sociology, social work, guidance and counseling, divinity, or education);

(B) Administration;

(C) Business; or

(D) A related field.

(3) The agency shall have a social services director who shall supervise child placement activities and casework services by the agency, possessing at least one (1) of the following qualifications (psychiatric facilities see 9 CAR §§ 31-1007 and 31-1107):

(A) A master's degree or higher in a human services field (child development, psychology, sociology, social work, counseling and guidance, divinity, or education);

(B) A bachelor's degree in a human services field and two (2) years of work experience in a child welfare agency; or

(4) Anyone permitted to supervise child placement or casework services shall meet the qualifications for social services director.

(5) Each agency shall have a caseworker who is responsible for doing assessments, case planning, and casework services, possessing at least one (1) of the following (psychiatric facilities see 9 CAR § 31-1007):

(A) A bachelor's degree in a human services field; or

(B) A bachelor's degree and two (2) years' work experience in a human services field.

(6) If casework services are contracted, the agency shall maintain all required personnel information on the contracted caseworkers.

(7) A caseworker shall not have more than twenty-five (25) children's cases at a time.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-206. Staff qualifications and training.**

(a) Childcare staff shall:

(1) Be at least twenty-one (21) years of age; and

(2) Have a high school diploma or the equivalent.

(b) Assistant childcare staff shall be at least nineteen (19) years of age, have a high school diploma or the equivalent, and be under the direct supervision of regular staff (excludes psychiatric and sexual rehabilitative programs).

(c)(1) Childcare staff shall complete preservice training prior to being counted in the staff-to-child ratio.

(2) This training may be counted toward training hours for the first year.

(3) This applies to personnel employed on or after January 1, 2011.

(d) Preservice training shall include without limitation:

(1) Confidentiality;

(2) Resident grievance process (psychiatric only);  
(3) Fire and disaster plans;  
(4) Suicide awareness and protocol;  
(5) Behavior management;  
(6) Crisis intervention strategies;  
(7) Agency policies and procedures;  
(8) Child maltreatment mandated reporter rule;  
(9) One (1) hour of training on the program's safety plan (sexual rehabilitative only); and

(10) Minimum Licensing Standards for Child Welfare Agencies (that pertain to license type).

(e)(1) All childcare staff shall have a current certificate of successful completion of first aid and cardiopulmonary resuscitation (CPR).

(2) The training shall require hands-on and skill-based instruction as well as practical testing.

(3) Training and certification that is provided solely online will not be accepted.

(4) Staff shall complete this requirement within ninety (90) days of hire.

(f) At least one (1) childcare staff currently certified in hands-on and skill-based CPR and first aid must be able to immediately respond to an emergency.

(g) No staff shall be allowed to participate in a physical restraint until properly trained to do so.

(h)(1) All full-time childcare staff shall have thirty (30) hours of job-related in-service or workshop training each year.

(2) First aid, CPR, and in-service training at the facility may be included.

(i)(1) Childcare staff working twenty-four (24) hours a week or fewer shall have at least fifteen (15) hours of job-related in-service or workshop training each year.

(2) First aid, CPR, and in-service training at the facility may be included.

(j)(1) All childcare staff in psychiatric facilities shall complete ten (10) hours of psychiatric-specific training before being counted in the staff-to-child ratio.

(2) This applies to employees hired on or after September 1, 2016.

(k) Sexual rehabilitative program childcare staff shall receive their initial ten (10) hours of sexual rehabilitative training within sixty (60) days of employment.

(l) All childcare staff in sexual rehabilitative programs shall have at least ten (10) hours of sexual rehabilitative training annually, which may be included in the required thirty (30) hours of annual training.

(m) Documentation verifying annual training shall include the:

- (1) Date;
- (2) Number of hours;
- (3) Name of the source; and
- (4) Topic or title.

(n) The administrator, social services director, each caseworker, and each therapist of a child welfare agency shall have twenty-four (24) hours of job-related continuing education each year.

(o) The agency shall maintain a personnel file for each employee, which shall include:

- (1) A resume or application;
- (2) Date of hire;
- (3) Verifications of qualifications;
- (4) Documentation of required annual training;
- (5) Criminal record check and Child Maltreatment Central Registry check information as required by law;
- (6) Documentation that applicable employees are informed that they are mandated reporters of suspected child maltreatment, according to Arkansas Code § 12-18-402, and are provided the information needed to make a report;
- (7) A functional job description; and
- (8) At least three (3) positive personal references from nonrelatives.

(p) All owners, operators, employees, or volunteers in a child welfare agency shall be responsible for ensuring the proper care, treatment, safety, and supervision of the children they supervise.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-207. Sponsors, mentors, volunteers, and student interns.**

(a) The agency shall have a policy clearly defining the qualifications, duties, and supervision of:

- (1) Sponsors;
- (2) Mentors; and
- (3) Volunteers.

(b)(1) A sponsor is a nonrelative person approved to take a child to the sponsor's home.

(2) This does not include normal age-appropriate activities such as:

- (A) Overnight visits with friends;
- (B) Extracurricular activities;
- (C) Church activities; or
- (D) Short-term summer camps.

(3) A sponsor's record shall contain the following documentation and narrative:

(A)(i) Documentation and narrative of at least one (1) home visit for evaluation purposes prior to visitation occurring.

(ii) A visual inspection of the home to ensure the home is appropriate and free of health and safety hazards;

(B) At least three (3) nonrelative character references;

(C) Documentation of Child Maltreatment Central Registry check, Division of Arkansas State Police criminal record checks, and Federal Bureau of Investigation criminal record checks, if applicable, as required for all household members; and

(D) Documentation of continuing contact and an annual inspection of the sponsor's home to ensure continued compliance.

(c)(1) A mentor is a person who offers supportive services to the child on-campus or off-campus.

(2) Examples include but are not limited to:

- (A) Shopping;

- (B) Movies; or
- (C) Sporting events.

(3) A mentor's record shall contain:

(A) At least three (3) nonrelative character references; and

(B) Documentation of Child Maltreatment Central Registry checks, Division of Arkansas State Police criminal record checks, and Federal Bureau of Investigation criminal record checks, if applicable.

(d)(1) A volunteer is a nonpaid person who donates their time or service, or both, to an agency or the child.

(2) A volunteer:

(A) Who provides direct care, substitutes as staff, and is counted in the staff-to-child ratio shall meet all qualifications required for a paid employee in that position; and

(B) Shall have appropriate supervision by a designated staff person.

(e)(1) A student intern is a student or a recent graduate who is undergoing supervised practical training at an agency.

(2) Student interns:

(A) Who provide direct care, substitute as staff, and are counted in the staff-to-child ratio shall meet all qualifications required for a paid employee in that position; and

(B) Shall have appropriate supervision by a designated staff person.

**Authority.** Arkansas Code § 9-28-403.

### **9 CAR § 31-208. Exploitation of children.**

(a) The agency shall not require a child to:

(1) Acknowledge:

(A) Dependency;

(B) Destitution; or

(C) Neglect; or

(2) Make public statements about their background.

(b) The agency shall not use, or allow to be used, any reports, pictures, or other information from which a child can be identified, except under the following conditions:

(1) The child and the parent or guardian sign a consent form that describes the purposes for which the identification is being made;

(2) The signed consent shall say in which publication or broadcast the identification will appear; and

(3) The parent or guardian and child shall be informed that the consent may be withdrawn.

(c) All information regarding children and their families shall be kept strictly confidential and may only be released with the consent of the child or a parent or guardian, except to authorized persons or agencies.

(d) The agency shall document that all staff have been made aware of the need to protect the confidentiality of children in the use of social media.

**Authority.** Arkansas Code § 9-28-403.

### **9 CAR § 31-209. Ethical standards.**

(a) The Child Welfare Agency Review Board sets forth this section as a code of ethics and standards for practice for all child welfare agencies within the State of Arkansas.

(b) Violations of the following shall be grounds for disciplinary action:

(1) **Confidentiality.**

(A) In providing services, a child welfare agency shall safeguard information given by clients.

(B) A child welfare agency shall obtain the client's informed written consent before releasing confidential information, except when consent to disclose is permitted by law or required by judicial order.

(C) If the client is a minor, then the written consent shall be made with the minor and their legal representative or guardian;

(2) **Misrepresentation.** A child welfare agency shall not misrepresent its program services or experience; and

(3) **Client relationships.** Relationships with clients shall not be exploited by the child welfare agency staff for personal gain.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-210. Unprofessional conduct.**

Unprofessional conduct in the practice of child welfare activities shall include without limitation:

(1) Permitting, aiding, or abetting an unlicensed person in performing activities that require a professional license;

(2) Misrepresenting type or status of:

(A) Education;

(B) Training;

(C) Expertise;

(D) Licensure; or

(E) Professional affiliations;

(3) Failing to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of services;

(4) Violating the ethical standards adopted by the Child Welfare Agency Review Board;

(5) Failing to report to the Child Welfare Agency Licensing Unit:

(A) Any disciplinary action taken against the child welfare agency by another jurisdiction, domestic or international;

(B) The surrender of a license; or

(C) Loss of authorization to practice child welfare activities in another jurisdiction;

(6) Failing to comply with any stipulation or agreement with the board

involving probation or a settlement of any disciplinary matters; and

(7) Engaging in behavior that could be viewed as sexual, dangerous, exploitative, or physically harmful to children.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-211. Inspections, investigations, and corrective action.**

(a) The licensing specialist shall conduct inspections to ensure continued compliance with licensing standards.

(b) The licensing specialist:

(1) Shall investigate complaints of alleged violation of licensing standards against all residential facilities; and

(2) May participate in investigations of alleged child maltreatment.

(c) The agency shall:

(1) Cooperate with the Child Welfare Agency Licensing Unit in conducting inspections and investigations; and

(2) Provide information required to verify compliance with rules.

(d) Inspections and investigations may be:

(1) Scheduled or unscheduled, at the discretion of the licensing specialist; and

(2) Conducted outside regular working hours.

(e) The frequency of inspections:

(1) Shall be at the discretion of the Child Welfare Agency Licensing Unit; and

(2) May be based on the agency's compliance history.

(f)(1) At the discretion of the Child Welfare Agency Licensing Unit, a multidisciplinary team may be asked to advise the licensing specialist during initial approval or during inspections.

(2) This team may include a professional in the appropriate field.

(g) Upon finding any violations of licensing standards, the licensing specialist shall issue to the agency a corrective action notice, which shall state:

(1) A factual description of the conditions that constitute a violation of the

standard;

(2) The specific law or standard violated; and

(3) A reasonable time frame within which the violation shall be corrected.

(h) The agency shall provide a written corrective action plan, when requested to do so, by the licensing specialist in a corrective action notice.

(i) Any owner, operator, employee, foster parent, or volunteer in a child welfare agency shall immediately notify the Child Abuse Hotline if they:

(1) Have reasonable cause to suspect that a child has been subjected to child maltreatment;

(2) Have reasonable cause to suspect that a child has died as a result of child maltreatment; or

(3) Observe a child being subjected to conditions or circumstances that would reasonably result in child maltreatment.

(j)(1) If a complaint of child maltreatment is filed against any owner, operator, employee, foster parent, volunteer, or other person in a child welfare agency, the agency administration shall evaluate the risk to children and determine the suitability of the person or persons to supervise, be left alone with children, have disciplinary control over children, or remain in the child welfare agency until the allegations are determined to be true or unsubstantiated.

(2) Any interim corrective action measures shall be approved by the Child Welfare Agency Licensing Unit.

(k) The agency shall maintain a log or file of all calls to the Child Abuse Hotline.

(l) The agency shall notify the Child Welfare Agency Licensing Unit by the next business day when a report of child maltreatment is accepted by the Child Abuse Hotline against the owner, operator, employee, foster parent, volunteer, child, or other person in a child welfare agency.

(m) The agency and all staff shall cooperate fully with investigators during a child maltreatment investigation.

(n) The agency shall take steps to prevent harm or retaliation against the child while an allegation of child maltreatment is being investigated.

(o)(1) Any person with a true finding of child maltreatment shall have a review by the owner or administrator of the agency, in consultation with the Child Welfare Agency Review Board or its designee, to determine corrective action.

(2) Corrective action may include without limitation:

- (A) Counseling;
- (B) Training;
- (C) Probationary employment;
- (D) Nonselection for employment; or
- (E) Termination.

(p)(1) Any employee who has been sanctioned by any licensing or certifying entity for any reason pertaining to child safety shall be reviewed by the owner or administrator of the agency, in consultation with the board or its designee, to determine corrective action.

(2) Corrective action may include without limitation:

- (A) Counseling;
- (B) Training;
- (C) Probationary employment;
- (D) Nonselection for employment; or
- (E) Termination of employment.

(q) The agency shall:

(1) Notify the Child Welfare Agency Licensing Unit by the next business day of:

- (A) Serious injuries requiring emergency medical treatment;
- (B) Agency vehicle accidents;
- (C) Arrests;
- (D) Elopements;
- (E) Suicide attempts; or
- (F) Deaths; and

(2) Maintain documentation of the incident and notification.

(r) The agency shall maintain reports on all incidents that cause:

- (1) Injury;

- (2) Property damage; or
- (3) Disruption to routine operation or services.

**Authority.** Arkansas Code § 9-28-403.

### **Subpart 3. Emergency Residential Facilities**

#### **9 CAR § 31-301. Applicable standards.**

(a) In addition to all standards in 9 CAR § 31-201 et seq., the following standards shall be met.

(b) Facilities holding an emergency residential facility license provide residential care on an emergency basis for up to ninety (90) days.

**Authority.** Arkansas Code § 9-28-403.

#### **9 CAR § 31-302. Admission.**

(a) The agency shall establish written criteria for admitting as well as excluding children.

(b) The facility shall not admit any child for whom the facility cannot provide adequate care.

(c) Each child shall have a:

- (1) Medical examination no more than one (1) year before admission; or
- (2) Documented appointment date for an exam within one (1) week after

admission.

(d) Each child shall have:

- (1) Proof of current immunizations;
- (2) A letter of exemption in accordance with the Department of Health; or
- (3) A scheduled appointment within one (1) week after admission.

(e) The facility shall obtain written verification of the placing agent's authority to place the child within five (5) working days.

(f) The facility shall obtain written authority for medical care for the child from the placing agent within seventy-two (72) hours.

(g) The agency shall comply with the Interstate Compact on the Placement of Children, Arkansas Code § 9-29-201 et seq., when admitting children from outside Arkansas, if applicable.

(h) The facility shall establish that all persons referred for admission are under eighteen (18) years of age at the time of admission.

(i) Residents may remain in the program after reaching eighteen (18) years of age with the reason for continued placement documented.

(j) The facility may admit children from birth to eighteen (18) years of age.

(k) The facility shall admit children for a maximum of ninety (90) days.

(l) At the time of admission, the following information shall be documented in the child's record:

(1) Name, signature, and role or relationship of the person who relinquished the child into care;

(2) A brief description of the circumstances requiring admission;

(3) The date and time of the admission;

(4) A brief description of the child's history, if known, including behavioral history;

(5) Any known medical history and known current health conditions;

(6) All medications currently prescribed for the child, if known and available;

and

(7) The child's current behavior or known emotional condition.

(m) Intake information shall be completed on each child in care within ten (10) working days after admission.

(n) The intake shall include:

(1) Demographic information on the child and parent or parents, including:

(A) Name;

(B) Address;

(C) Birth date;

- (D) Gender;
  - (E) Race; and
  - (F) Religious preference;
  - (2) A factual description of the circumstances requiring placement;
  - (3) A brief social history of the family;
  - (4) The child's current legal status or custody; and
  - (5) Any history of previous placements outside the family.
- (o)(1) The facility shall:
- (A) Obtain copies of legal documents within thirty (30) days of admission;

or

- (B) Document its attempts to obtain the documents.
- (2) The legal documents shall include without limitation:
  - (A) Birth certificates;
  - (B) Social Security cards; and
  - (C) Court orders.
- (p) A dependent juvenile child of a parent who is in the custody of the Division of Children and Family Services shall be subject to all rules regarding:
  - (1) Space;
  - (2) Ratio;
  - (3) Health; and
  - (4) Safety.
- (q) Facilities that have an adult program shall provide sleeping and living arrangements to ensure separation of adults from children.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-303. Assessment and case planning.**

- (a) The agency shall assign a caseworker to each child who is responsible for doing:
- (1) Assessments;

- (2) Case planning; and
  - (3) Casework services.
- (b)(1) A plan of safe care shall be developed for all children with:
- (A) Physical limitations;
  - (B) Medical conditions; or
  - (C) Behaviors that are indicative of harm to self or others, including without limitation:
    - (i) Arson;
    - (ii) Physical aggression;
    - (iii) Sexual aggression; and
    - (iv) Suicidal behaviors or other self-harming tendencies.
- (2) This plan shall:
- (A) Identify the behavior or problem; and
  - (B) Specify the safeguards that are to be implemented.
- (3) The agency shall:
- (A) Document that the childcare staff are informed of the provisions of the plan; and
  - (B) Place a copy of the plan into the child's record.
- (c) An assessment of services needed to ensure the health and welfare of the child, including medical history and psychological history, shall be:
- (1) Completed for each child; and
  - (2) Included in the case plan.
- (d) A case plan shall be developed for each resident received for care.
- (e) The case plan shall be developed within thirty (30) days after placement.
- (f) The child's case plan shall contain, at the minimum:
- (1) Specific needs of the child;
  - (2) Plan for meeting the child's needs;
  - (3) Special treatment issues, for example, psychotropic medications, sexual misconduct, and neurological disorders, shall be identified with a statement of how the special needs shall be met; and

(4) A plan to ensure that the child's educational needs are met according to applicable state law.

(g) A copy of the case plan shall be made available to the parent or parents, guardian or guardians, court, or other agencies involved in case plan services delivery.

(h) The agency caseworker shall visit the child monthly to monitor the progress of the case plan.

**Authority.** Arkansas Code § 9-28-403.

### **9 CAR § 31-304. Children's records.**

(a) The agency shall keep a confidential case record for each child that includes the following:

- (1) Demographic information;
  - (2) Plan of safe care, if applicable;
  - (3) A complete intake;
  - (4) Consents, including consent for medical care and authority to place the child;
  - (5) Interstate Compact on the Placement of Children, Arkansas Code § 9-29-201 et seq., information, if applicable;
  - (6) Case plans;
  - (7) Copies of legal documents, for example, birth certificate, Social Security card, or court orders, or documentation of its attempts to obtain the documents;
  - (8) Physical exams and immunization records or documentation of its attempts to obtain the documents;
  - (9) Psychological reports, if applicable;
  - (10) Educational reports, if applicable;
  - (11) Disciplinary and incident reports, if applicable;
  - (12) Documentation of casework services and child contact; and
  - (13) Discharge statement.
- (b) Records for each child shall be kept for five (5) years from the date of

discharge, unless otherwise specified by Arkansas law.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-305. Behavior management.**

- (a) The agency shall have a written discipline policy that is consistently followed.
- (b) Discipline shall be directed toward teaching the child acceptable behavior and self-control.
- (c) Discipline shall be appropriate to the child's:
  - (1) Age;
  - (2) Development; and
  - (3) History.
- (d) The following disciplinary actions shall not be used:
  - (1) Denial of:
    - (A) Meals;
    - (B) Sleep;
    - (C) Shelter;
    - (D) Essential clothing; or
    - (E) Case plan activities;
  - (2)(A) Denial of parental visits or regular phone and mail contact with family.
    - (B) Nondisciplinary case planning issues are accepted;
  - (3) Lewd or obscene language;
  - (4) Derogatory comments about the child or the child's:
    - (A) Family;
    - (B) Race; or
    - (C) Gender;
  - (5) Restriction to a room for more than a short period of time without periodic observation;
  - (6) Restriction to a dark room or area;
  - (7) Locked isolation;

- (8) Physical injury or threat of bodily harm;
- (9) Humiliating or degrading action;
- (10) Extremely strenuous work or exercise; or
- (11) Mechanical or chemical restraints.

(e) Physical restraint:

(1) Shall be initiated only by a trained staff, only to prevent injury to:

- (A) The child;
- (B) Other people; or
- (C) Property; and

(2) Shall not be initiated solely as a form of discipline.

(f)(1)(A) Physical restraints shall be performed using minimal force and time necessary.

(B) "Physical restraint" means the application of physical force without the use of any device for the purposes of restraining the free movement of a resident's body.

(2) Briefly holding a child without undue force in order to calm or comfort or holding a hand to safely escort a child from one (1) area to another is not considered a physical restraint.

(g) Documentation of all physical restraints shall:

- (1) Be maintained; and
- (2) Include the:
  - (A) Child's name;
  - (B) Date;
  - (C) Time;
  - (D) Reason;
  - (E) Staff involved; and
  - (F) Measures taken prior to restraint.

(h) A child shall not be allowed to administer discipline, except teen parents may discipline their own children under the supervision and guidance of staff.

(i) Searches of a child or a child's personal property shall be for reasons limited to:

- (1) Safety and security of children and staff;
  - (2) Cases of suspected theft; or
  - (3) Suspicion of possession of items that are not permitted by agency policy.
- (j) Any searches requiring removal of clothing shall be:
- (1) Done in privacy; and
  - (2) Witnessed by two (2) staff of the same gender as the child.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-306. Ratio and supervision.**

- (a) The facility shall not exceed its total licensed capacity.
- (b)(1) There shall be a staff-to-child ratio of at least:
  - (A) One to nine (1:9) during waking hours; and
  - (B) One to twelve (1:12) during sleeping hours.
- (2) Staff members' children shall be counted in the ratio.
- (c) If any child is under six (6) years of age, the ratio shall be at least one to seven (1:7) at all times.
- (d) Only staff who directly supervise children shall be counted in this ratio.
- (e) Childcare staff shall be responsible for providing the level of supervision, care, and treatment necessary to ensure the safety and well-being of each child at the facility, taking into account the child's age, individual differences and abilities, surrounding circumstances, hazards, and risks.
- (f)(1) All childcare shift staff counted in the staff-to-child ratio shall remain awake at all times.
  - (2) House parents are excluded from this requirement.
- (g) The facility shall maintain a daily census report to include the child's name and room or building assignment.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-307. Health and medical care.**

(a)(1) Each child shall have a medical exam at least annually.

(2) Health exams need not be repeated during the year if a child moves from one (1) facility or agency to another, provided the results of the exam are available to the receiving facility or agency.

(b) All medications shall be administered to children by staff according to medical instructions.

(c) The administering of all medications, including over-the-counter, shall be logged by the person administering the medication at the time that the medication is given.

(d) The medication log shall include:

- (1) The child's name;
- (2) Time and date;
- (3) Medication dosage; and
- (4) Initials of the person administering the medication.

(e)(1) All medications excluding Epipens, inhalers, and glucagon kits shall be kept securely locked and stored according to pharmaceutical recommendations.

(2) An age-appropriate and developmentally capable child may be provided or have access to nonnarcotic prescriptions with an approved safety plan.

(3) Examples include without limitation:

- (A) Birth control;
- (B) Acne cream; and
- (C) Topical creams.

(f) Keys to medication storage areas shall be on the premises and readily accessible by staff at all times.

(g) Currently prescribed medications belonging to children shall be returned to the parent or custodian upon discharge.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-308. Program.**

(a) The facility shall ensure each child receives education in accordance with the Department of Education.

(b) The facility shall:

(1) Teach each child the daily living tasks required as a part of living in a group setting; and

(2) Assign only light chores that are age-appropriate.

(c) The agency shall:

(1) Have a policy regarding each child's money received; and

(2) Ensure that each child's funds are available to that child under staff supervision for personal use.

(d) The facility shall not allow a child's outside employment, chores, or extracurricular activities to interfere with the child's time for:

(1) School;

(2) Sleep;

(3) Family visits; or

(4) Case plan activities.

(e) The facility shall provide each child with adequate and nutritious food.

(f) The facility shall ensure that each child has sufficient sleep for their age and physical condition.

(g) The facility shall instruct each child in good grooming and personal hygiene habits.

(h) The facility shall ensure each child is provided with their own clothing that is clean, well-fitting, seasonal, and appropriate to age and gender, unless otherwise directed by a physician.

(i) The facility shall ensure each child is provided with opportunities for regular recreational activities and exercise.

(j) The facility shall provide activities and equipment that are age-appropriate to the children in its care.

(k) The facility shall monitor and time-limit the use of:

- (1) Television;
- (2) Videos;
- (3) Computer games; and
- (4) Other screen time activities.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-309. Grounds.**

- (a) The grounds of the facility shall be kept clean and free of safety hazards.
- (b) The facility shall provide sufficient outdoor recreation space for age-appropriate physical activities.
- (c) Swimming pools shall be inspected and approved annually by the Department of Health.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-310. Buildings.**

- (a) No facility shall be located in:
  - (1) A shopping center;
  - (2) A strip mall; or
  - (3) Other buildings used for commercial activity.
- (b) Unused or vacant portions of a facility shall not be rented, leased, loaned, or otherwise occupied by any commercial or other business entity, or private individuals, not associated with the facility or its management.
- (c) All buildings used by children or staff shall be inspected and approved annually for fire safety by fire department officials.
- (d) All buildings used by children or staff shall be inspected and approved annually for health and sanitation as required by the Department of Health.
- (e) All buildings shall comply with local zoning ordinances and land use requirements where those exist.

(f) All buildings and furnishings shall be:

- (1) Safe;
- (2) Clean; and
- (3) In good repair.

(g)(1) There shall be no more than twelve (12) children in a sleeping unit.

(2) A sleeping unit is considered to be a group of bedrooms.

(h)(1) Sleeping units sharing the same building shall be separated, for example, into different:

- (A) Corridors;
- (B) Wings; or
- (C) Floors.

(2) Sleeping units modified or newly constructed after September 1, 2016, shall comply with this standard.

(i) Licensing shall be notified of any changes to buildings that:

- (1) Affect usage, size, or capacity; or
- (2) Are structural changes.

(j) Building usage shall be approved by licensing prior to resident occupancy, and all required inspections, permits, and authorizations shall be provided.

(k) Any modifications to buildings used by children, or an increase in capacity, shall require inspection and approval by the fire department and Department of Health, if applicable.

(l) All parts of buildings used as living, sleeping, or bath areas shall have a heating, ventilating, and air conditioning source that keeps the temperature a:

- (1) Minimum of sixty-five degrees (65°); and
- (2) Maximum of eighty-five degrees (85°).

(m)(1) The facility shall provide a living area that has at least thirty-five square feet (35 sq. ft.) of floor space per child.

(2) The dining area and indoor recreation area may be included in this space.

(n) The facility shall provide a dining room.

(o) The facility shall have a kitchen.

(p)(1) Manufactured homes used as residential facilities shall be tied down and underpinned as required by the Arkansas Manufactured Home Commission.

(2) The home shall obtain an inspection and approval from the commission prior to being licensed.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-311. Bathrooms.**

(a) The facility shall provide bathrooms for the children.

(b) There shall be a separate toilet, bathtub or shower, and sink for every six (6) children.

(c) There shall be an adequate supply of hot and cold running water.

(d) The bathroom shall be clean and sanitary.

(e) There shall be separate bath and toilet facilities for males and females.

(f) There shall be an adequate supply of:

(1) Soap;

(2) Towels; and

(3) Tissue.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-312. Sleeping arrangements.**

(a) The facility shall provide bedrooms for the children.

(b) There shall be no more than four (4) children per bedroom.

(c) There shall be at least fifty square feet (50 sq. ft.) of floor space per child in each bedroom.

(d) No child four (4) years of age or over shall share a bedroom with a child of the opposite gender, except teenaged parents who participate in the care of their own children.

(e) Each child shall have a separate bed with a mattress, sheets, pillow, pillowcase,

and adequate cover, all in good condition.

(f) All cribs used for children shall have current certification of compliance with Consumer Product Safety Commission standards.

(g)(1) Children twelve (12) months of age and below shall be placed flat on their backs to sleep, in accordance with American Academy of Pediatrics guidelines, to lessen the risk of suffocation and sudden infant death syndrome.

(2) If a child rolls over on their own, the facility is not required to reposition the child.

(3) If there is a medical reason a child cannot sleep on their back, a signed statement from the child's physician shall be in the file stating the:

(A) Reason;

(B) Sleep position indicated; and

(C) Time frame required.

(h) Beds shall be positioned to ensure all children can easily exit the room in case of emergency.

(i) No child under six (6) years of age shall occupy a top bunk.

(j) Bedding shall be changed at least weekly, or more often if needed.

(k) Each child shall have an area to store personal belongings.

(l) Staff sleeping quarters shall be separate from children's sleeping rooms.

(m) Room arrangements shall be based on characteristics of each resident to ensure the safety of each child.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-313. Safety.**

(a) The facility shall have an operable telephone or comparable communication system.

(b)(1) The facility shall have a continuous supply of clean drinking water.

(2) If the water source is not a municipal system, the source shall be approved by the Department of Health annually.

(c) A private sewage and septic system shall be approved initially and upon any increase in capacity by the department.

(d) There shall be operational smoke detectors:

- (1) Near the cooking area and heating units; and
- (2) Within ten feet (10') of each bedroom.

(e)(1) An operational chemical fire extinguisher or other fire suppression system approved by local fire inspection officials shall be in the cooking area of each building.

(2) Approval of the fire suppression system shall be documented.

(f) There shall be an emergency evacuation plan diagramed and posted in each building that is being used by children.

(g) Fire drills shall be practiced with children each month.

(h) Severe weather drills shall be practiced with children quarterly.

(i) A record of drills shall be maintained showing:

- (1) Date and time of day of the drill;
- (2) Number of participants; and
- (3) Length of time required to reach safety.

(j) Each child shall be instructed in emergency procedures at admission.

(k) The facility shall have proof of current rabies vaccinations for all household pets as required by Arkansas law.

(l) No child shall be allowed to operate dangerous machinery or equipment, including firearms, without proper adult supervision and following manufacturers' guidelines for:

- (1) Age;
- (2) Safety precautions; and
- (3) Safety gear.

(m) The agency shall have policies and procedures for carrying, storage, and use of all firearms located at the facility.

(n) All firearms shall be:

- (1) Maintained in a secure, locked location; or
- (2) Secured by a trigger lock.

(o) All ammunition shall be secured and locked separately from firearms unless they are stored in a safe, for example, a handgun safe or a long gun safe.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-314. Transportation.**

- (a) The facility shall have agency-procured transportation available at all times.
- (b) The facility vehicle or vehicles shall not be used for personal use unless other facility transportation is not available.
- (c) Any vehicle used to transport children shall be:
  - (1) In safe working condition; and
  - (2) Maintained in compliance with motor vehicle laws.
- (d) Any vehicle used to transport children shall be insured.
- (e) Children shall be transported only by an authorized person possessing a valid driver's license.
- (f) Children shall be transported according to Arkansas law, including without limitation:
  - (1) Use of safety belts;
  - (2) Use of child safety seats; and
  - (3) Smoking restrictions.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-315. Discharge.**

- (a) The discharge shall be planned by agency staff.
- (b) The agency may discharge a child on an emergency basis if failure to do so could result in:
  - (1) Harm to the child;
  - (2) Harm to others; or
  - (3) Significant property damage.

- (c) The agency shall discharge the child to the custody of:
  - (1) The child's parent;
  - (2) A person with authorization from the parent or guardian; or
  - (3) A person authorized by a court order to assume custody of the child.
- (d) The agency shall:
  - (1) Complete a discharge statement on each child that includes the:
    - (A) Discharge date; and
    - (B) Reason for discharge; and
  - (2) Provide a copy of it to the child's custodian.
- (e) Documentation of the discharge shall be maintained in the child's record.

**Authority.** Arkansas Code § 9-28-403.

#### **Subpart 4. Emergency Family Style Care**

##### **9 CAR § 31-401. Generally.**

(a) In addition to all standards in 9 CAR § 31-201 et seq., the following standards shall be met.

(b) Facilities holding an emergency family style care license shall provide residential care on an emergency basis for up to ninety (90) days in a homelike setting.

**Authority.** Arkansas Code § 9-28-403.

##### **9 CAR § 31-402. Admission.**

(a) The agency shall establish written criteria for admitting and excluding children.

(b) The facility shall not admit any child for whom the facility cannot provide adequate care.

(c) Each child shall have a:

- (1) Medical exam no more than one (1) year before admission; or
- (2) Documented appointment date for an exam within one (1) week after

admission.

(d) Each child shall have:

- (1) Proof of current immunizations;
- (2) A letter of exemption, in accordance with the Department of Health; or
- (3) A scheduled appointment within one (1) week after admission.

(e) The facility shall obtain written verification of the placing agents' authority to place the child within five (5) working days.

(f) The facility shall obtain written authority for medical care for the child from the placing agent within seventy-two (72) hours.

(g) The agency shall comply with the Interstate Compact on the Placement of Children, Arkansas Code § 9-29-201 et seq., when admitting children from outside Arkansas, if applicable.

(h) The facility shall establish that all persons referred for admission are under eighteen (18) years of age at the time of admission.

(i) Residents may remain in the program after reaching eighteen (18) years of age, with the reason for continued placement documented.

(j) The facility may admit children from birth to eighteen (18) years of age.

(k) The facility shall admit children for a maximum of ninety (90) days.

(l) At the time of admission, the following information shall be documented in the child's record:

(1) Name, signature, and role or relationship of the person who relinquished the child into care;

(2) A brief description of the circumstances requiring admission;

(3) The date and time of the admission;

(4) A brief description of the child's history, if known, including behavioral history;

(5) Any known medical history and known current health conditions;

(6) All medications currently prescribed for the child, if known and available;

and

(7) The child's current behavior or known emotional condition.

(m) Intake information shall be completed on each child in care within ten (10) working days after admission.

(n) The intake shall include:

(1) Demographic information on the child and parent or parents, including:

- (A) Name;
- (B) Address;
- (C) Birth date;
- (D) Gender;
- (E) Race; and
- (F) Religious preference;

(2) A factual description of the circumstances requiring placement;

(3) A brief social history of the family;

(4) The child's current legal status or custody; and

(5) Any history of previous placements outside the family.

(o)(1) The facility shall:

(A) Obtain copies of legal documents within thirty (30) days of admission;

or

(B) Document its attempts to obtain the documents.

(2) The legal documents shall include without limitation:

- (A) Birth certificates;
- (B) Social Security cards; and
- (C) Court orders.

(p) A dependent juvenile child of a parent who is in the custody of the Division of Children and Family Services shall be subject to all rules regarding:

- (1) Space;
- (2) Ratio;
- (3) Health; and
- (4) Safety.

(q) Facilities that have an adult program shall provide sleeping and living arrangements to ensure separation of adults from children.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-403. Assessment and case planning.**

(a) The agency shall assign a caseworker to each child who is responsible for doing:

- (1) Assessments;
- (2) Case planning; and
- (3) Casework services.

(b)(1) A plan of safe care shall be developed for all children with physical limitations, medical conditions, or behaviors that are indicative of harm to self or others, including without limitation:

- (A) Arson;
- (B) Physical aggression;
- (C) Sexual aggression;
- (D) Suicidal behaviors; or
- (E) Other self-harming tendencies.

(2) This plan shall:

- (A) Identify the behavior or problem; and
- (B) Specify the safeguards that are to be implemented.

(3) The agency shall:

(A) Document that the childcare staff are informed of the provisions of the plan; and

(B) Place a copy of the plan into the child's record.

(c) An assessment of services needed in order to ensure the health and welfare of the child, including their medical history and psychological history, shall be:

- (1) Completed for each child; and
- (2) Included in the case plan.

(d) A case plan shall be developed for each resident that is received for care.

(e) The case plan shall be developed within thirty (30) days after placement.

(f) The child's case plan shall contain, at a minimum:

(1) Specific needs of the child;

(2) Plan for meeting the child's needs;

(3) Special treatment issues, for example, psychotropic medications, sexual misconduct, and neurological disorders, which shall be identified with a statement of how the special needs shall be met; and

(4) A plan to ensure that the child's educational needs are met according to applicable state law.

(g) A copy of the case plan shall be made available to the parent or parents, guardian or guardians, court, or other agencies involved in the delivery of case plan services.

(h) The agency caseworker shall visit the child monthly to monitor the progress of the case plan.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-404. Children's records.**

(a) The agency shall keep a confidential case record for each child that includes the following:

(1) Demographic information;

(2) Plan of safe care, if applicable;

(3) A complete intake;

(4) Consents, including consent for medical care and authority to place the child;

(5) Interstate Compact on the Placement of Children, Arkansas Code § 9-29-201 et seq., information, if applicable;

(6) Case plans;

(7) Copies of legal documents, for example, birth certificate, Social Security card, court orders, or documentation of its attempts to obtain the documents;

(8) Physical exams and immunization records, or documentation of its

attempts to obtain such documents;

- (9) Psychological reports, if applicable;
- (10) Educational reports, if applicable;
- (11) Disciplinary and incident reports, if applicable;
- (12) Documentation of casework services and child contact; and
- (13) Discharge statement.

(b) Records for each child shall be kept for five (5) years from the date of discharge unless otherwise specified by Arkansas law.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-405. Behavior management.**

(a) The agency shall have a written discipline policy that is consistently followed.

(b) Discipline shall be directed toward teaching the child about acceptable behavior and self-control.

(c) Discipline shall be appropriate to the child's:

- (1) Age;
- (2) Development; and
- (3) History.

(d) The following disciplinary actions shall not be used:

- (1) Denial of:
  - (A) Meals;
  - (B) Sleep;
  - (C) Shelter;
  - (D) Essential clothing; or
  - (E) Case plan activities;
- (2)(A) Denial of parental visits or regular phone and mail contact with family.
  - (B) Nondisciplinary case planning issues are accepted;
- (3) Lewd or obscene language;
- (4) Derogatory comments about the child or the child's:

- (A) Family;
- (B) Race; or
- (C) Gender;

(5) Restriction to a room for more than a short period of time without periodic observation;

- (6) Restriction to a dark room or area;
- (7) Locked isolation;
- (8) Physical injury or threat of bodily harm;
- (9) Humiliating or degrading action;
- (10) Extremely strenuous work or exercise; or
- (11) Mechanical or chemical restraints.

(e) Physical restraint:

(1) Shall be initiated only by a trained staff, only to prevent injury to:

- (A) The child;
- (B) Other people; or
- (C) Property; and

(2) Shall not be initiated solely as a form of discipline.

(f)(1) Physical restraints shall be performed using minimal force and time necessary.

(2) "Physical restraint" means the application of physical force without the use of any device for the purposes of restraining the free movement of a resident's body.

(3) Briefly holding a child without undue force in order to calm or comfort the child or holding a hand to safely escort a child from one (1) area to another is not considered a physical restraint.

(g) Documentation of all restraints shall be maintained and include:

- (1) The child's name;
- (2) The date;
- (3) The time;
- (4) The reason;
- (5) The staff involved; and

(6) Any measures taken prior to restraint.

(h) A child shall not be allowed to administer discipline, except teen parents who may discipline their own children under the supervision and guidance of staff.

(i) Searches of a child or a child's personal property shall be for reasons limited to:

(1) Safety and security of children and staff;

(2) Cases of suspected theft; or

(3) Suspicion of possession of items that are not permitted by agency policy.

(j) Any searches requiring removal of clothing shall be done in privacy.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-406. Ratio and supervision.**

(a) The facility shall use a house parent staffing model.

(b) The facility shall not exceed its total licensed capacity.

(c) The facility shall have no more than eight (8) children in each unit, including the house parent's children.

(d)(1) There shall be a staff-to-child ratio of at least one to eight (1:8) at all times.

(2) Staff members' children shall be counted in the ratio.

(e) Childcare staff shall be responsible for providing the level of supervision, care, and treatment that is necessary to ensure the safety and well-being of each child at the facility, taking into account the child's age, individual differences and abilities, surrounding circumstances, hazards, and risks.

(f) The facility shall maintain a daily census report to include the child's name and building or room assignment.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-407. Health and medical care.**

(a)(1) Each child shall have a medical exam at least annually.

(2) Health exams need not be repeated during the year if a child moves from

one (1) facility or agency to another, provided the results of the exam are available to the receiving facility or agency.

(b) All medications shall be administered to children by staff according to medical instructions.

(c) The administering of all medications, including over-the-counter, shall be logged by the person administering the medication at the time that the medication is given.

(d) The medication log shall include the:

(1) Child's name;

(2) Time and date;

(3) Medication dosage; and

(4) Initials of the person administering the medication.

(e)(1) All medications, excluding Epipens, inhalers, and glucagon kits, shall be kept securely locked and stored according to pharmaceutical recommendations.

(2) An age-appropriate and developmentally capable child may be provided or have access to nonnarcotic prescriptions with an approved safety plan.

(3) Examples include without limitation:

(A) Birth control;

(B) Acne cream; and

(C) Topical creams.

(f) Keys to medication storage areas shall be kept on the premises and readily accessible by staff at all times.

(g) Currently prescribed medications belonging to children shall be returned to the parent or custodian upon discharge.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-408. Program.**

(a) The facility shall ensure that each child receives education in accordance with the Department of Education.

(b) The facility shall:

(1) Teach each child the daily living tasks required as a part of living in a group setting; and

(2) Assign only light chores that are age-appropriate.

(c) The agency shall:

(1) Have a policy regarding each child's money received; and

(2) Ensure that each child's funds are available to that child under staff supervision for personal use.

(d) The facility shall not allow a child's outside employment, chores, or extracurricular activities to interfere with the child's time for:

(1) School;

(2) Sleep;

(3) Family visits; or

(4) Case plan activities.

(e) The facility shall provide each child with adequate and nutritious food, routinely eaten in the:

(1) Home;

(2) Cottage; or

(3) Unit.

(f) The facility shall ensure that each child has sufficient sleep for their age and physical condition.

(g) The facility shall instruct each child in good grooming and personal hygiene habits.

(h) The facility shall ensure each child is provided with their own clothing that is clean, well-fitting, seasonal, and appropriate to age and gender, unless otherwise directed by a physician.

(i) The facility shall ensure each child is provided with opportunities for regular recreational activities and exercise.

(j) The facility shall provide activities and equipment that are age-appropriate to the children in its care.

(k) The facility shall monitor and time-limit the use of:

- (1) Television;
- (2) Videos;
- (3) Computer games; and
- (4) Other screen time activities.

(l) The agency shall have policies and procedures to ensure that children in care are allowed to participate in age-appropriate activities away from the facility.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-409. Grounds.**

(a) The grounds of the facility shall be kept clean and free of safety hazards.

(b) The facility shall provide sufficient outdoor recreation space for age-appropriate physical activities.

(c) Swimming pools shall be inspected and approved annually by the Department of Health.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-410. Buildings.**

(a)(1) The building shall be a single-style dwelling, such as a:

- (A) House;
- (B) Cottage; or
- (C) Duplex in which the facility occupies both units.

(2) Multiple units may be located on campus.

(b) The building or buildings shall house only children in:

- (1) Emergency family style care; or
- (2) Residential family style care.

(c) No facility shall be located in:

- (1) A shopping center;

(2) A strip mall; or

(3) Other buildings that are used for commercial activity.

(d) Unused or vacant portions of a facility shall not be rented, leased, loaned, or otherwise occupied by any commercial or other business entity, or private individuals, not associated with the facility or its management.

(e) All buildings used by children or staff shall be inspected and approved annually for fire safety by fire department officials.

(f) All buildings used by children or staff shall be inspected and approved annually for health and sanitation as required by the Department of Health.

(g) All buildings shall comply with local zoning ordinances and land use requirements where those exist.

(h) All buildings and furnishings shall be:

(1) Safe;

(2) Clean; and

(3) In good repair.

(i) Licensing shall be notified of any changes to buildings that:

(1) Affect usage, size, or capacity; or

(2) Are structural changes.

(j) Building usage shall be approved by licensing prior to resident occupancy, and all required inspections, permits, and authorizations shall be provided.

(k) Any modification to buildings used by children, or an increase in capacity, shall require inspection and approval by the fire department and Department of Health, if applicable.

(l) All parts of buildings used as living, sleeping, or bath areas shall have a heating, ventilating, and air conditioning source that keeps the temperature a:

(1) Minimum of sixty-five degrees (65°); and

(2) Maximum of eighty-five degrees (85°).

(m)(1) The facility shall provide a living area that has at least thirty-five square feet (35 sq. ft.) of floor space per child.

(2) The dining area and indoor recreation area may be included in this space.

(n) The facility shall provide a dining area.

(o) The facility shall have a kitchen.

(p)(1) Manufactured homes used as residential facilities shall be tied down and underpinned as required by the Arkansas Manufactured Home Commission.

(2) The home shall obtain an inspection and approval from the commission prior to being licensed.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-411. Bathrooms.**

(a) The facility shall provide bathrooms for the children.

(b) There shall be a separate toilet, bathtub or shower, and sink for every six (6) children.

(c) There shall be an adequate supply of hot and cold running water.

(d) The bathroom shall be clean and sanitary.

(e) There shall be an adequate supply of:

(1) Soap;

(2) Towels; and

(3) Tissue.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-412. Sleeping arrangements.**

(a) The facility shall provide bedrooms for the children.

(b) There shall be no more than four (4) children per bedroom.

(c) There shall be at least fifty square feet (50 sq. ft.) of floor space per child in each bedroom.

(d) No child four (4) years of age or over shall share a bedroom with a child of the opposite gender, except teenaged parents who participate in the care of their own children.

(e) Each child shall have a separate bed with a mattress, sheets, pillow, pillowcase, and adequate cover, all in good condition.

(f) All cribs used for children shall have current certification of compliance with Consumer Product Safety Commission standards.

(g)(1) Children twelve (12) months of age and below shall be placed flat on their backs to sleep, in accordance with American Academy of Pediatrics guidelines, to lessen the risk of suffocation and sudden infant death syndrome.

(2) If a child rolls over on their own, the facility is not required to reposition the child.

(3) If there is a medical reason that a child cannot sleep on his or her back, then a signed statement from the child's physician shall be in the file stating the:

(A) Reason;

(B) Sleep position indicated; and

(C) Time frame required.

(h) Beds shall be positioned to ensure that all children can easily exit the room in case of emergency.

(i) No child under six (6) years of age shall occupy a top bunk.

(j) Bedding shall be changed at least weekly, more often if needed.

(k) Each child shall have an area to store personal belongings.

(l) Staff sleeping quarters shall be separate from children's sleeping rooms.

(m) Room arrangements shall be based on characteristics of each resident to ensure the safety of each child.

**Authority.** Arkansas Code § 9-28-403.

### **9 CAR § 31-413. Safety.**

(a) The facility shall have an operable telephone or comparable communication system.

(b)(1) The facility shall have a continuous supply of clean drinking water.

(2) If the water source is not a municipal system, the source shall be approved

annually by the Department of Health.

(c) A private sewage and septic system shall be approved initially and upon any increase in capacity by the department.

(d) There shall be operational smoke detectors:

- (1) Near the cooking area and heating units; and
- (2) Within ten feet (10') of each bedroom.

(e)(1) An operational chemical fire extinguisher or other fire suppression system approved by local fire inspection officials shall be in the cooking area of each building.

(2) Approval of the fire suppression system shall be documented.

(f) There shall be an emergency evacuation plan diagramed and posted in each building that is used by children.

(g) Fire drills shall be practiced with children each month.

(h) Severe weather drills shall be practiced with children quarterly.

(i) A record of drills shall be maintained, showing the:

- (1) Date and time of day of the drill;
- (2) Number of participants; and
- (3) Length of time required to reach safety.

(j) Each child shall be instructed in emergency procedures at admissions.

(k) The facility shall have proof of current rabies vaccinations for all household pets as required by Arkansas law.

(l) No child shall be allowed to operate dangerous machinery or equipment, including firearms, without proper adult supervision, and following manufacturers' guidelines for:

- (1) Age;
- (2) Safety precautions; and
- (3) Safety gear.

(m) The agency shall have policies and procedures for carrying, storage, and use of all firearms located at the facility.

(n) All firearms shall be:

- (1) Maintained in a secure, locked location; or

(2) Secured by a trigger lock.

(o) All ammunition shall be secured and locked separately from firearms unless they are stored in a safe, for example, a handgun safe or a long gun safe.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-414. Transportation.**

(a) The facility shall have agency-procured transportation available at all times.

(b) The facility vehicle or vehicles shall not be used for personal use unless other facility transportation is not available.

(c) Any vehicle used to transport children shall be:

(1) In safe working condition; and

(2) Maintained in compliance with motor vehicle laws.

(d) Any vehicle used to transport children shall be insured.

(e) Children shall be transported only by an authorized person possessing a valid driver's license.

(f) Children shall be transported according to Arkansas law, including without limitation:

(1) Use of safety belts;

(2) Use of child safety seats; and

(3) Smoking restrictions.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-415. Discharge.**

(a) The discharge shall be planned by agency staff.

(b) The agency may discharge a child on an emergency basis if failure to do so could result in:

(1) Harm to the child;

(2) Harm to others; or

- (3) Significant property damage.
- (c) The agency shall discharge the child to the custody of:
  - (1) The child's parent;
  - (2) A person with authorization from the parent or guardian; or
  - (3) A person authorized by court order to assume custody of the child.
- (d) The agency shall:
  - (1) Complete a discharge statement on each child that includes the:
    - (A) Discharge date; and
    - (B) Reason for discharge; and
  - (2) Provide a copy of it to the child's custodian.
- (e) Documentation of the discharge shall be maintained in the child's record.

**Authority.** Arkansas Code § 9-28-403.

## **Subpart 5. Residential Facilities**

### **9 CAR § 31-501. Generally.**

- (a) In addition to all standards in 9 CAR § 31-201 et seq., the following standards shall be met.
- (b) Facilities holding a residential facility license shall provide residential care on a long-term basis.

**Authority.** Arkansas Code § 9-28-403.

### **9 CAR § 31-502. Admission.**

- (a) The agency shall establish written criteria for admitting and excluding children.
- (b) The facility shall not admit any child for whom the facility cannot provide adequate care.
- (c) Each child shall have a:
  - (1) Medical exam no more than one (1) year before admission; or

(2) Documented appointment date for an exam within one (1) week after admission.

(d) Each child shall have:

(1) Proof of current immunizations;

(2) A letter of exemption in accordance with the Department of Health; or

(3) A scheduled appointment within one (1) week after admission.

(e) The facility shall obtain written verification of the placing agent's authority to place the child at the time of admission.

(f) The facility shall obtain written authority for medical care for the child from the placing agent at the time of admission.

(g) The agency shall comply with the Interstate Compact on the Placement of Children, Arkansas Code § 9-29-201 et seq., when admitting children from outside Arkansas, if applicable.

(h) The facility shall establish that all persons referred for admission are under eighteen (18) years of age at the time of admission.

(i)(1) Residents may remain in the program after reaching eighteen (18) years of age with the reason for continued placement documented.

(2) The resident shall be discharged no later than their twenty-first birthday.

(j)(1) The facility may admit a child under five (5) years of age only if:

(A) That child is a part of a sibling group of which one (1) child is five (5) years of age or older; or

(B) It is the summer before the child is eligible to enter kindergarten.

(2) Exception is made for the infant child or children of a parent who is admitted to the facility.

(k) At the time of admission, the following information shall be documented in the child's record:

(1) Name, signature, and role or relationship of the person who relinquished the child into care;

(2) A brief description of the circumstances requiring admission;

(3) The date and time of the admission;

(4) A brief description of the child's history, if known, including behavioral history;

(5) Any known medical history and known current health conditions;

(6) All medications currently prescribed for the child, if known and available;

and

(7) The child's current behavior or known emotional condition.

(l) Intake information shall be completed on each child in care within ten (10) working days after admission.

(m) The intake shall include:

(1) Demographic information on the child and parent or parents, including:

(A) Name;

(B) Address;

(C) Birth date;

(D) Gender;

(E) Race; and

(F) Religious preference;

(2) A factual description of the circumstances requiring placement;

(3) A brief social history of the family;

(4) The child's current legal status or custody; and

(5) Any history of previous placements outside the family.

(n)(1) The facility shall:

(A) Obtain copies of legal documents within thirty (30) days of admission;

or

(B) Document its attempts to obtain the documents.

(2) The legal documents shall include without limitation:

(A) Birth certificates;

(B) Social Security cards; and

(C) Court orders.

(o) A dependent juvenile child of a parent who is in the custody of the Division of Children and Family Services shall be subject to all rules regarding:

- (1) Space;
- (2) Ratio;
- (3) Health; and
- (4) Safety.

(p) Facilities that have an adult program shall provide sleeping and living arrangements to ensure separation of adults from children.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-503. Assessment and case planning.**

(a) The agency shall assign a caseworker to each child, who is responsible for doing:

- (1) Assessments;
- (2) Case planning; and
- (3) Casework services.

(b)(1) A plan of safe care shall be developed for all children with physical limitations, medical conditions, or behaviors that are indicative of harm to self or others, including without limitation:

- (A) Physical aggression;
- (B) Sexual aggression;
- (C) Suicidal behaviors; or
- (D) Other self-harming tendencies.

(2) This plan shall:

- (A) Identify the behavior or problem; and
- (B) Specify the safeguards that are to be implemented.

(3) The agency shall:

(A) Document that the childcare staff are informed of the provisions of the plan; and

- (B) Place a copy of the plan into the child's record.

(c) An assessment of services needed to ensure the health and welfare of the child,

including medical history and psychological history, shall be:

- (1) Completed for each child; and
  - (2) Included in the case plan.
- (d) A case plan shall be developed for each resident who is received for care.
- (e) The case plan shall be developed within thirty (30) days after placement.
- (f) The child's case plan shall contain, at the minimum:
- (1) Specific needs of the child;
  - (2) Plan for meeting the child's needs;
  - (3) Special treatment issues, for example, psychotropic medications, sexual misconduct, and neurological disorders, shall be identified with a statement of how the special needs shall be met;
  - (4) A plan to ensure that the child's educational needs are met according to applicable state law; and
  - (5) Date of next review of the case plan.
- (g) A copy of the case plan shall be made available to the parent or parents, guardian or guardians, court, or other agencies involved in case plan services delivery.
- (h) The case plan shall be:
- (1) Reviewed at least semiannually; and
  - (2) Updated to reflect the child's progress.

**Authority.** Arkansas Code § 9-28-403.

### **9 CAR § 31-504. Children's records.**

- (a) The agency shall keep a confidential case record for each child that includes the following:
- (1) Demographic information;
  - (2) Plan of safe care, if applicable;
  - (3) A complete intake;
  - (4) Consents, including consent for medical care and authority to place the child;

- (5) Interstate Compact on the Placement of Children, Arkansas Code § 9-29-201 et seq., information, if applicable;
  - (6) Case plans and case plan reviews;
  - (7) Copies of legal documents, for example, birth certificate, Social Security card, court orders, or documentation of its attempts to obtain the documents;
  - (8) Physical exams and immunization records or documentation of its attempts to obtain the documents;
  - (9) Psychological reports, if applicable;
  - (10) Educational reports, if applicable;
  - (11) Disciplinary and incident reports, if applicable;
  - (12) Documentation of casework services and child contact; and
  - (13) Discharge statement.
- (b) Records for each child shall be kept for five (5) years from the date of discharge, unless otherwise specified by Arkansas law.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-505. Behavior management.**

- (a) The agency shall have a written discipline policy that is consistently followed.
- (b) Discipline shall be directed toward teaching the child acceptable behavior and self-control.
- (c) Discipline shall be appropriate to the child's:
  - (1) Age;
  - (2) Development; and
  - (3) History.
- (d) The following disciplinary actions shall not be used:
  - (1) Denial of:
    - (A) Meals;
    - (B) Sleep;
    - (C) Shelter;

- (D) Essential clothing; or
- (E) Case plan activities;
- (2)(A) Denial of parental visits or regular phone and mail contact with family.
  - (B) Nondisciplinary case planning issues are accepted;
- (3) Lewd or obscene language;
- (4) Derogatory comments about the child or the child's:
  - (A) Family;
  - (B) Race; or
  - (C) Gender;
- (5) Restriction to a room for more than a short period of time without periodic observation;
- (6) Restriction to a dark room or area;
- (7) Locked isolation;
- (8) Physical injury or threat of bodily harm;
- (9) Humiliating or degrading action;
- (10) Extremely strenuous work or exercise; or
- (11) Mechanical or chemical restraints.
- (e) Physical restraint:
  - (1) Shall be initiated only by trained staff, only to prevent injury to:
    - (A) The child;
    - (B) Other people; or
    - (C) Property; and
  - (2) Shall not be initiated solely as a form of discipline.
- (f)(1) Physical restraints shall be performed using minimal force and time necessary.
  - (2) "Physical restraint" means the application of physical force without the use of any device for the purpose of restraining the free movement of a resident's body.
  - (3) Briefly holding a child without undue force in order to calm or comfort or holding a hand to safely escort a child from one (1) area to another is not considered a physical restraint.

(g) Documentation of all restraints shall be maintained and include the:

- (1) Child's name;
- (2) Date;
- (3) Time;
- (4) Reason;
- (5) Staff involved; and
- (6) Measures taken prior to restraint.

(h) A child shall not be allowed to administer discipline, except teen parents may discipline their own children under the supervision and guidance of staff.

(i) Searches of a child or a child's personal property shall be for reasons limited to:

- (1) Safety and security of children and staff;
- (2) Cases of suspected theft; or
- (3) Suspicion of possession of items that are not permitted by agency policy.

(j) Any searches requiring removal of clothing shall be:

- (1) Done in privacy; and
- (2) Witnessed by two (2) staff of the same gender as the child.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-506. Ratio and supervision.**

(a) The facility shall not exceed its total licensed capacity.

(b)(1) There shall be a staff-to-child ratio of at least:

- (A) One to nine (1:9) during waking hours; and
- (B) One to twelve (1:12) during sleeping hours.

(2) Staff members' children shall be counted in the ratio.

(c) If any child is under six (6) years of age, the ratio shall be at least one to seven (1:7) at all times.

(d) Only staff who directly supervise children shall be counted in this ratio.

(e) Childcare staff shall be responsible for providing the level of supervision, care, and treatment necessary to ensure the safety and well-being of each child at the

facility, taking into account the child's age, individual differences and abilities, surrounding circumstances, hazards, and risks.

(f)(1) All childcare shift staff counted in the staff-to-child ratio shall remain awake at all times.

(2) House parents are excluded from this requirement.

(g) The facility shall maintain a daily census report to include the child's name and room or building assignment.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-507. Health and medical care.**

(a)(1) Each child shall have a medical exam at least annually.

(2) Health exams need not be repeated during the year if a child moves from one (1) facility or agency to another, provided the results of the exam are available to the receiving facility or agency.

(b) All medications shall be administered to children by staff according to medical instructions.

(c) The administering of all medications, including over-the-counter, shall be logged by the person administering the medicine at the time that the medication is given.

(d) The medication log shall include the:

(1) Child's name;

(2) Time and date;

(3) Medication dosage; and

(4) Initials of the person administering the medication.

(e)(1) All medications, excluding Epipens, inhalers, and glucagon kits, shall be kept securely locked and stored according to pharmaceutical recommendations.

(2) An age-appropriate and developmentally capable child may be provided or have access to nonnarcotic prescriptions with an approved safety plan.

(3) Examples include without limitation:

- (A) Birth control;
- (B) Acne cream; and
- (C) Topical creams.

(f) Keys to medication storage areas shall be kept on the premises and readily accessible by staff at all times.

(g) Currently prescribed medications belonging to children shall be returned to the parent or custodian upon discharge.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-508. Program.**

(a) The facility shall ensure that each child receives education in accordance with the Department of Education.

(b) The facility shall:

(1) Teach each child the daily living tasks required as a part of living in a group setting; and

(2) Assign only light chores that are age-appropriate.

(c) The agency shall:

(1) Have a policy regarding each child's money received; and

(2) Ensure that each child's funds are available to that child under staff supervision for personal use.

(d) The facility shall not allow a child's outside employment, chores, or extracurricular activities to interfere with the child's time for:

(1) School;

(2) Sleep;

(3) Family visits; or

(4) Case plan activities.

(e) The facility shall provide each child with adequate and nutritious food.

(f) The facility shall ensure that each child has sufficient sleep for their age and physical condition.

(g) Each child shall be instructed in good grooming and personal hygiene habits.

(h) The facility shall ensure that each child is provided with their own clothing that is clean, well-fitting, seasonal, and appropriate to age and gender, unless otherwise directed by a physician.

(i) The facility shall ensure that each child in care is provided with opportunities for regular recreational activities and exercise.

(j) The facility shall provide activities and equipment that are age-appropriate to the children in its care.

(k) The use of television, videos, computer games, and other screen time activities shall be monitored and time-limited.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-509. Grounds.**

(a) The grounds of the facility shall be kept clean and free of safety hazards.

(b) The facility shall provide sufficient outdoor recreation space for age-appropriate physical activities.

(c) Swimming pools shall be inspected and approved annually by the Department of Health.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-510. Buildings.**

(a) No facility shall be located in:

(1) A shopping center;

(2) A strip mall; or

(3) Other buildings that are used for commercial activity.

(b) Unused or vacant portions of a facility shall not be rented, leased, loaned, or otherwise occupied by any commercial or other business entity, or private individuals, not associated with the facility or its management.

(c) All buildings used by children or staff shall be inspected and approved annually for fire safety by fire department officials.

(d) All buildings used by children or staff shall be inspected and approved annually for health and sanitation as required by the Department of Health.

(e) All buildings shall comply with local zoning ordinances and land use requirements where those exist.

(f) All buildings and furnishings shall be:

- (1) Safe;
- (2) Clean; and
- (3) In good repair.

(g)(1) There shall be no more than twelve (12) children in a sleeping unit.

(2) A sleeping unit is considered to be a group of bedrooms.

(h)(1) Sleeping units sharing the same building shall be separated, for example, into different:

- (A) Corridors;
- (B) Wings; or
- (C) Floors.

(2) All sleeping units modified or newly constructed after September 1, 2016, shall comply with this standard.

(i) Licensing shall be notified of any changes to buildings that:

- (1) Affect usage, size, or capacity; or
- (2) Are structural changes.

(j) Building usage shall be approved by licensing prior to resident occupancy, and all required inspections, permits, and authorizations shall be provided.

(k) Any modification to buildings used by children, or an increase in capacity, shall require inspection and approval by the fire department and Department of Health, if applicable.

(l) All parts of buildings used as living, sleeping, or bath areas shall have a heating, ventilating, and air conditioning source that keeps the temperature a:

- (1) Minimum of sixty-five degrees (65°); and

(2) Maximum of eighty-five degrees (85°).

(m)(1) The facility shall provide a living area that has at least thirty-five square feet (35 sq. ft.) of floor space per child.

(2) The dining area and indoor recreation area may be included in this space.

(n) The facility shall provide a dining room.

(o) The facility shall have a kitchen.

(p)(1) Manufactured homes used as residential facilities shall be tied down and underpinned as required by the Arkansas Manufactured Home Commission.

(2) The home shall obtain an inspection and approval from the commission prior to being licensed.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-511. Bathrooms.**

(a) The facility shall provide bathrooms for the children.

(b) There shall be a separate toilet, bathtub or shower, and sink for every six (6) children.

(c) There shall be an adequate supply of hot and cold running water.

(d) The bathroom shall be clean and sanitary.

(e) There shall be separate bath and toilet facilities for males and females.

(f) There shall be an adequate supply of:

(1) Soap;

(2) Towels; and

(3) Tissue.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-512. Sleeping arrangements.**

(a) The facility shall provide bedrooms for the children.

(b) There shall be no more than four (4) children per bedroom.

(c) There shall be at least fifty square feet (50 sq. ft.) of floor space per child in each bedroom.

(d) No child four (4) years of age or over shall share a bedroom with a child of the opposite gender, except teenaged parents who participate in the care of their own children.

(e) Each child shall have a separate bed with a mattress, sheets, pillow, pillowcase, and adequate cover, all in good condition.

(f) All cribs used for children shall have current certification of compliance with Consumer Product Safety Commission standards.

(g)(1) Children twelve (12) months of age and below shall be placed flat on their backs to sleep, in accordance with American Academy of Pediatrics guidelines, to lessen the risk of suffocation and sudden infant death syndrome.

(2) If a child rolls over on their own, the facility is not required to reposition the child.

(3) If there is a medical reason that a child cannot sleep on their back, a signed statement from the child's physician shall be in the file stating the:

(A) Reason;

(B) Sleep position indicated; and

(C) Time frame required.

(h) Beds shall be positioned to ensure that all children can easily exit the room in case of emergency.

(i) No child under six (6) years of age shall occupy a top bunk.

(j) Bedding shall be changed at least weekly, more often if needed.

(k) Each child shall have an area to store personal belongings.

(l) Staff sleeping quarters shall be separate from children's sleeping rooms.

(m) Room arrangements shall be based on characteristics of each resident to ensure the safety of each child.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-513. Safety.**

(a) The facility shall have an operable telephone or comparable communication system.

(b)(1) The facility shall have a continuous supply of clean drinking water.

(2) If the water source is not a municipal system, the source shall be approved by the Department of Health annually.

(c) A private sewage and septic system shall be approved initially and upon any increase in capacity by the department.

(d) There shall be operational smoke detectors:

(1) Near the cooking area and heating units; and

(2) Within ten feet (10') of each bedroom.

(e)(1) An operational chemical fire extinguisher or other fire suppression system approved by local fire inspection officials shall be in the cooking area of each building.

(2) Approval of the fire suppression system shall be documented.

(f) There shall be an emergency evacuation plan diagramed and posted in each building that is used by children.

(g) Fire drills shall be practiced with children each month.

(h) Severe weather drills shall be practiced with children quarterly.

(i) A record of drills shall be maintained, showing the:

(1) Date and time of day of the drill;

(2) Number of participants; and

(3) Length of time required to reach safety.

(j) Each child shall be instructed in emergency procedures at admission.

(k) The facility shall have proof of current rabies vaccinations for all household pets as required by Arkansas law.

(l) No child shall be allowed to operate dangerous machinery or equipment, including firearms, without proper adult supervision and following manufacturers' guidelines for:

(1) Age;

(2) Safety precautions; and

(3) Safety gear.

(m) The agency shall have policies and procedures for carrying, storage, and use of all firearms located at the facility.

(n) All firearms shall be:

(1) Maintained in a secure, locked location; or

(2) Secured by a trigger lock.

(o) All ammunition shall be secured and locked separately from firearms unless they are stored in a safe, for example, a handgun safe or a long gun safe.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-514. Transportation.**

(a) The facility shall have agency-procured transportation available at all times.

(b) The facility vehicle or vehicles shall not be used for personal use unless other facility transportation is not available.

(c) Any vehicle used to transport children shall be:

(1) In safe working condition; and

(2) Maintained in compliance with motor vehicle laws.

(d) Any vehicle used to transport children shall be insured.

(e) Children shall be transported only by an authorized person possessing a valid driver's license.

(f) Children shall be transported according to Arkansas law, including without limitation:

(1) Use of safety belts;

(2) Use of child safety seats; and

(3) Smoking restrictions.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-515. Discharge.**

- (a) The discharge shall be planned by agency staff.
- (b) The agency may discharge a child on an emergency basis if failure to do so could result in:
  - (1) Harm to the child;
  - (2) Harm to other persons; or
  - (3) Significant property damage.
- (c) A child shall be discharged to the custody of the child's parent or a person with authorization from the parent, guardian, or a person authorized by court order to assume custody of the child.
- (d) The agency shall:
  - (1) Complete a discharge statement on each child that includes a:
    - (A) Discharge date; and
    - (B) Reason for discharge; and
  - (2) Provide a copy of it to the child's custodian.
- (e) Documentation of the discharge shall be maintained in the child's record.

**Authority.** Arkansas Code § 9-28-403.

## **Subpart 6. Residential Family Style Care**

### **9 CAR § 31-601. Generally.**

- (a) In addition to all standards in 9 CAR § 31-201 et seq., the following standards shall be met.
- (b) Facilities holding a residential family style care license shall provide residential care on a long-term basis in a homelike setting.

**Authority.** Arkansas Code § 9-28-403.

### **9 CAR § 31-602. Admission.**

- (a) The agency shall establish written criteria for admitting and excluding children.

(b) The facility shall not admit any child for whom the facility cannot provide adequate care.

(c) Each child shall have a:

(1) Medical exam no more than one (1) year before admission; or

(2) Documented appointment date for an exam within one (1) week after admission.

(d) Each child shall have:

(1) Proof of current immunizations;

(2) A letter of exemption in accordance with the Department of Health; or

(3) A scheduled appointment within one (1) week after admission.

(e) The facility shall obtain written verification of the placing agent's authority to place the child at the time of admission.

(f) The facility shall obtain written authority for medical care for the child from the placing agent at the time of admission.

(g) The agency shall comply with the Interstate Compact on the Placement of Children, Arkansas Code § 9-29-201 et seq., when admitting children from outside Arkansas, if applicable.

(h) The facility shall establish that all persons referred for admission are under eighteen (18) years of age at the time of admission.

(i)(1) Residents may remain in the program after reaching eighteen (18) years of age with the reason for continued placement documented.

(2) The resident shall be discharged no later than their twenty-first birthday.

(j)(1) The facility may admit a child, or children, under five (5) years of age only if:

(A) That child is a part of a sibling group of whom one (1) child is five (5) years of age or older; or

(B) It is the summer before the child is eligible to enter kindergarten.

(2) Exception is made for the infant child or children of a parent who is admitted to the facility.

(k) At the time of an admission, the following information shall be documented in the child's record:

(1) Name, signature, and role or relationship of the person who relinquished the child into care;

(2) A brief description of the circumstances requiring admission;

(3) The date and time of the admission;

(4) A brief description of the child's history, if known, including behavioral history;

(5) Any known medical history and known current health conditions;

(6) All medications currently prescribed for the child, if known and available;

and

(7) The child's current behavior or known emotional condition.

(l) Intake information shall be completed on each child in care within ten (10) working days after admission.

(m) The intake shall include:

(1) Demographic information on the child and parent or parents, including:

(A) Name;

(B) Address;

(C) Birth date;

(D) Gender;

(E) Race; and

(F) Religious preference;

(2) A factual description of the circumstances requiring placement;

(3) A brief social history of the family;

(4) The child's current legal status or custody; and

(5) Any history of previous placements outside the family.

(n)(1) The facility shall:

(A) Obtain copies of legal documents within thirty (30) days of admission;

or

(B) Document its attempts to obtain the documents.

(2) The legal documents shall include without limitation:

(A) Birth certificates;

- (B) Social Security cards; and
- (C) Court orders.

(o) A dependent juvenile child of a parent who is in the custody of the Division of Children and Family Services shall be subject to all rules regarding:

- (1) Space;
- (2) Ratio;
- (3) Health; and
- (4) Safety.

(p) Facilities that have an adult program shall provide sleeping and living arrangements to ensure separation of adults from children.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-603. Assessment and case planning.**

(a) The agency shall assign a caseworker to each child who is responsible for doing:

- (1) Assessments;
- (2) Case planning; and
- (3) Casework services.

(b)(1) A plan of safe care shall be developed for all children with physical limitations, medical conditions, or behaviors that are indicative of harm to self or others, including without limitation:

- (A) Arson;
- (B) Physical aggression;
- (C) Sexual aggression;
- (D) Suicidal behaviors; or
- (E) Other self-harming tendencies.

(2) This plan shall:

- (A) Identify the behavior or problem; and
- (B) Specify the safeguards that are to be implemented.

- (3) The agency shall:
- (A) Document that the childcare staff are informed of the provisions of the plan; and
  - (B) Place a copy of the plan into the child's record.
- (c) An assessment of services needed to ensure the health and welfare of the child, including medical history and psychological history, shall be:
- (1) Completed for each child; and
  - (2) Included in the case plan.
- (d) A case plan shall be developed for each resident who is received for care.
- (e) The case plan shall be developed within thirty (30) days after placement.
- (f) The child's case plan shall contain, at the minimum:
- (1) Specific needs of the child;
  - (2) A plan for meeting the child's needs;
  - (3) Special treatment issues, for example, psychotropic medications, sexual misconduct, and neurological disorders, shall be identified with a statement of how the special needs shall be met;
  - (4) A plan to ensure that the child's educational needs are met according to applicable state law; and
  - (5) Date of next review of the case plan.
- (g) A copy of the case plan shall be made available to the parent or parents, guardian or guardians, court, or other agencies involved in case plan services delivery.
- (h) The case plan shall be:
- (1) Reviewed at least semiannually; and
  - (2) Updated to reflect the child's progress.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-604. Children's records.**

- (a) The agency shall keep a confidential case record for each child that includes the following:

- (1) Demographic information;
  - (2) Plan of safe care, if applicable;
  - (3) A complete intake;
  - (4) Consents, including consent for medical care and authority to place the child;
  - (5) Interstate Compact on the Placement of Children, Arkansas Code § 9-29-201 et seq., information, if applicable;
  - (6) Case plans and case plan reviews;
  - (7) Copies of legal documents, for example, birth certificate, Social Security card, court orders, or documentation of its attempts to obtain the documents;
  - (8) Physical exams and immunization records or documentation of its attempts to obtain the documents;
  - (9) Psychological reports, if applicable;
  - (10) Educational reports, if applicable;
  - (11) Disciplinary and incident reports, if applicable;
  - (12) Documentation of casework services and child contact; and
  - (13) Discharge statement.
- (b) Records for each child shall be kept for five (5) years from the date of discharge, unless otherwise specified by Arkansas law.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-605. Behavior management.**

- (a) The agency shall have a written discipline policy that is consistently followed.
- (b) Discipline shall be directed toward teaching the child acceptable behavior and self-control.
- (c) Discipline shall be appropriate to the child's:
  - (1) Age;
  - (2) Development; and
  - (3) History.

(d) The following disciplinary actions shall not be used:

(1) Denial of:

- (A) Meals;
- (B) Sleep;
- (C) Shelter;
- (D) Essential clothing; or
- (E) Case plan activities;

(2)(A) Denial of parental visits or regular phone and mail contact with family.

(B) Nondisciplinary case planning issues are accepted;

(3) Lewd or obscene language;

(4) Derogatory comments about the child or the child's:

- (A) Family;
- (B) Race; or
- (C) Gender;

(5) Restriction to a room for more than a short period of time without periodic observation;

(6) Restriction to a dark room or area;

(7) Locked isolation;

(8) Physical injury or threat of bodily harm;

(9) Humiliating or degrading action;

(10) Extremely strenuous work or exercise; or

(11) Mechanical or chemical restraints.

(e) Physical restraint:

(1) Shall be initiated only by trained staff, only to prevent injury to:

- (A) The child;
- (B) Other people; or
- (C) Property; and

(2) Shall not be initiated solely as a form of discipline.

(f)(1) Physical restraints shall be performed using minimal force and time necessary.

(2) "Physical restraint" means the application of physical force without the use of any device, for the purpose of restraining the free movement of a resident's body.

(3) Briefly holding a child without undue force in order to calm or comfort or holding a hand to safely escort a child from one (1) area to another is not considered a physical restraint.

(g) Documentation of all restraints shall be maintained and include the:

(1) Child's name;

(2) Date;

(3) Time;

(4) Reason;

(5) Staff involved; and

(6) Measures taken prior to restraint.

(h) A child shall not be allowed to administer discipline, except teen parents may discipline their own children under the supervision and guidance of staff.

(i) Searches of a child or a child's personal property shall be for reasons limited to:

(1) Safety and security of children and staff;

(2) Cases of suspected theft; or

(3) Suspicion of possession of items that are not permitted by agency policy.

(j) Any searches requiring removal of clothing shall be done in privacy.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-606. Ratio and supervision.**

(a) The facility shall use a house parent staffing model.

(b) The facility shall not exceed its total licensed capacity.

(c) The facility shall have no more than eight (8) children in each unit, including the house parent's children.

(d)(1) There shall be a staff-to-child ratio of at least one to eight (1:8) at all times.

(2) Staff members' children shall be counted in the ratio.

(e) Childcare staff shall be responsible for providing the level of supervision, care,

and treatment necessary to ensure the safety and well-being of each child at the facility, taking into account the child's age, individual differences and abilities, surrounding circumstances, hazards, and risks.

(f) The facility shall maintain a daily census report to include the child's name and room or building assignment.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-607. Health and medical care.**

(a)(1) Each child shall have a medical exam at least annually.

(2) Health exams need not be repeated during the year if a child moves from an initial facility or agency to another, provided the results of the exam are available to the receiving facility or agency.

(b) All medications shall be administered to children by staff according to medical instructions.

(c) The administering of all medications, including over-the-counter, shall be logged by the person administering the medication at the time that the medication is given.

(d) The medication log shall include the:

- (1) Child's name;
- (2) Time and date;
- (3) Medication dosage; and
- (4) Initials of the person administering the medication.

(e)(1) All medications, excluding Epipens, inhalers, and glucagon kits, shall be kept securely locked and stored according to pharmaceutical recommendations.

(2) An age-appropriate and developmentally capable child may be provided or have access to nonnarcotic prescriptions with an approved safety plan.

(3) Examples include without limitation:

- (A) Birth control;
- (B) Acne cream; and

(C) Topical creams.

(f) Keys to medication storage areas shall be kept on the premises and readily accessible by staff at all times.

(g) Currently prescribed medications belonging to children shall be returned to the parent or custodian upon discharge.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-608. Program.**

(a) The facility shall ensure each child receives education in accordance with the Department of Education.

(b) The facility shall:

(1) Teach each child the daily living tasks required as a part of living in a group setting; and

(2) Assign only light chores that are age-appropriate.

(c) The agency shall:

(1) Have a policy regarding each child's money received; and

(2) Ensure that each child's funds are available to that child under staff supervision for personal use.

(d) The facility shall not allow a child's outside employment, chores, or extracurricular activities to interfere with the child's time for:

(1) School;

(2) Sleep;

(3) Family visits; or

(4) Case plan activities.

(e) The facility shall provide each child with adequate and nutritious food, routinely eaten in the:

(1) Home;

(2) Cottage; or

(3) Unit.

(f) The facility shall ensure that each child has sufficient sleep for their age and physical condition.

(g) The facility shall instruct each child in good grooming and personal hygiene habits.

(h) The facility shall ensure that each child is provided with their own clothing that is clean, well-fitting, seasonal, and appropriate to age and gender, unless otherwise directed by a physician.

(i) The facility shall ensure that each child in its care is provided with opportunities for regular recreational activities and exercise.

(j) The facility shall provide activities and equipment that are age-appropriate to the children in its care.

(k) The facility shall monitor and time-limit the use of:

- (1) Television;
- (2) Videos;
- (3) Computer games; and
- (4) Other screen time activities.

(l) The agency shall have policies and procedures to ensure that children in its care are allowed to participate in age-appropriate activities away from the facility.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-609. Grounds.**

(a) The grounds of the facility shall be kept clean and free of safety hazards.

(b) The facility shall provide sufficient outdoor recreation space for age-appropriate physical activities.

(c) Swimming pools shall be inspected and approved annually by the Department of Health.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-610. Buildings.**

(a)(1) The building shall be a single-style dwelling, such as a:

- (A) House;
- (B) Cottage; or
- (C) Duplex in which the facility occupies both units.

(2) Multiple units may be located on campus.

(b) The building or buildings shall house only children in residential family style care or emergency family style care.

(c) No facility shall be located in:

- (1) A shopping center;
- (2) A strip mall; or
- (3) Other buildings that are used for commercial activity.

(d) Unused or vacant portions of a facility shall not be rented, leased, loaned, or otherwise occupied by any commercial or other business entity, or private individuals, not associated with the facility or its management.

(e) All buildings used by children or staff shall be inspected and approved annually for fire safety by fire department officials.

(f) All buildings used by children or staff shall be inspected and approved annually for health and sanitation as required by the Department of Health.

(g) All buildings shall comply with local zoning ordinances and land use requirements where those exist.

(h) All buildings and furnishings shall be:

- (1) Safe;
- (2) Clean; and
- (3) In good repair.

(i) Licensing shall be notified of any changes to buildings that:

- (1) Affect their usage, size, or capacity; or
- (2) Are structural changes.

(j) Building usage shall be approved by licensing prior to resident occupancy, and all required inspections, permits, and authorizations shall be provided.

(k) Any modification to buildings used by children, or an increase in capacity, shall require inspection and approval by the fire department and Department of Health, if applicable.

(l) All parts of buildings used as living, sleeping, or bath areas shall have a heating, ventilating, and air conditioning source that keeps the temperature to a:

(1) Minimum of sixty-five degrees (65°); and

(2) Maximum of eighty-five degrees (85°).

(m)(1) The facility shall provide a living area that has at least thirty-five square feet (35 sq. ft.) of floor space per child.

(2) The dining area and indoor recreation area may be included in this space.

(n) The facility shall provide a dining area.

(o) The facility shall have a kitchen.

(p)(1) Manufactured homes used as residential facilities shall be tied down and underpinned as required by the Arkansas Manufactured Home Commission.

(2) The home shall obtain an inspection and approval from the commission prior to being licensed.

**Authority.** Arkansas Code § 9-28-403.

### **9 CAR § 31-611. Bathrooms.**

(a) The facility shall provide bathrooms for the children.

(b) There shall be a separate toilet, bathtub or shower, and sink for every six (6) children.

(c) There shall be an adequate supply of hot and cold running water.

(d) The bathroom shall be clean and sanitary.

(e) There shall be an adequate supply of:

(1) Soap;

(2) Towels; and

(3) Tissue.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-612. Sleeping arrangements.**

(a) The facility shall provide bedrooms for the children.

(b) There shall be no more than four (4) children per bedroom.

(c) There shall be at least fifty square feet (50 sq. ft.) of floor space per child in each bedroom.

(d) No child four (4) years of age or over shall share a bedroom with a child of the opposite gender, except teenaged parents who participate in the care of their own children.

(e) Each child shall have a separate bed with a mattress, sheets, pillow, pillowcase, and adequate cover, all in good condition.

(f) All cribs used for children shall have current certification of compliance with Consumer Product Safety Commission standards.

(g)(1) Children twelve (12) months of age and below shall be placed flat on their backs to sleep, in accordance with American Academy of Pediatrics guidelines, to lessen the risk of suffocation and sudden infant death syndrome.

(2) If a child rolls over on their own, the facility is not required to reposition the child.

(3) If there is a medical reason that a child cannot sleep on their back, a signed statement from the child's physician shall be in the file stating the:

(A) Reason;

(B) Sleep position indicated; and

(C) Time frame required.

(h) Beds shall be positioned to ensure all children can easily exit the room in case of emergency.

(i) No child under six (6) years of age shall occupy a top bunk.

(j) Bedding shall be changed at least weekly, more often if needed.

(k) Each child shall have an area to store personal belongings.

(l) Staff sleeping quarters shall be separate from children's sleeping rooms.

(m) Room arrangements shall be based on characteristics of each resident to ensure the safety of each child.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-613. Safety.**

(a) The facility shall have an operable telephone or comparable communication system.

(b)(1) The facility shall have a continuous supply of clean drinking water.

(2) If the water source is not a municipal system, the source shall be approved by the Department of Health annually.

(c) A private sewage and septic system shall be approved initially, and upon any increase in capacity, by the department.

(d) There shall be operational smoke detectors:

(1) Near the cooking area and heating units; and

(2) Within ten feet (10') of each bedroom.

(e)(1) An operational chemical fire extinguisher or other fire suppression system approved by local fire inspection officials shall be in the cooking area of each building.

(2) Approval of the fire suppression system shall be documented.

(f) There shall be an emergency evacuation plan diagramed and posted in each building that is used by children.

(g) Fire drills shall be practiced with children each month.

(h) Severe weather drills shall be practiced with children quarterly.

(i) A record of drills shall be maintained, showing the:

(1) Date and time of day of the drill;

(2) Number of participants; and

(3) Length of time required to reach safety.

(j) Each child shall be instructed in emergency procedures at admission.

(k) The facility shall have proof of current rabies vaccinations for all household pets as required by Arkansas law.

(l) No child shall be allowed to operate dangerous machinery or equipment, including firearms, without proper adult supervision and following manufacturers' guidelines for:

- (1) Age;
- (2) Safety precautions; and
- (3) Safety gear.

(m) The agency shall have policies and procedures for carrying, storage, and use of all firearms located at the facility.

(n) All firearms shall be:

- (1) Maintained in a secure, locked location; or
- (2) Secured by a trigger lock.

(o) All ammunition shall be secured and locked separately from firearms unless they are stored in a safe, for example, a handgun safe or a long gun safe.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-614. Transportation.**

(a) The facility shall have agency-procured transportation available at all times.

(b) The facility vehicle or vehicles shall not be used for personal use unless other facility transportation is available.

(c) Any vehicle used to transport children shall be:

- (1) In safe working condition; and
- (2) Maintained in compliance with motor vehicle laws.

(d) Any vehicle used to transport children shall be insured.

(e) Children shall be transported only by an authorized person possessing a valid driver's license.

(f) Children shall be transported according to Arkansas law, including without limitation:

- (1) Use of safety belts;
- (2) Use of child safety seats; and

(3) Smoking restrictions.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-615. Discharge.**

(a) The discharge shall be planned by agency staff.

(b) The agency may discharge a child on an emergency basis if failure to do so could result in:

- (1) Harm to the child;
- (2) Harm to other persons; or
- (3) Significant property damage.

(c) A child shall be discharged to the custody of the child's parent or a person with authorization from the parent or guardian, or a person authorized by court order to assume custody of the child.

(d) The agency shall:

- (1) Complete a discharge statement on each child that includes a:
  - (A) Discharge date; and
  - (B) Reason for discharge; and
- (2) Provide a copy of it to the child's custodian.

(e) Documentation of the discharge shall be maintained in the child's record.

**Authority.** Arkansas Code § 9-28-403.

**Subpart 7. Independent Living**

**9 CAR § 31-701. Generally.**

(a) In addition to all standards in 9 CAR § 31-201 et seq., the following standards shall be met.

(b) Agencies holding an independent living license shall provide residential care while preparing the residents, sixteen (16) years of age and older, for living

independently.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-702. Agency responsibilities.**

The agency shall have written policies and procedures specific to the program, which shall include:

- (1) Written rules of conduct;
- (2) A plan for reduced supervision;
- (3) Transportation for residents;
- (4) Outside employment for residents;
- (5) Medication management; and
- (6) Social activities off-campus.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-703. Admission.**

- (a) The agency shall establish written criteria for admitting and excluding children.
- (b) The facility shall not admit any child for whom the facility cannot provide adequate care.
- (c) Each child shall have a:
  - (1) Medical exam no more than one (1) year before admission; or
  - (2) Documented appointment date for an exam within one (1) week after admission.
- (d) Each child shall have:
  - (1) Proof of current immunizations;
  - (2) A letter of exemption in accordance with the Department of Health; or
  - (3) A scheduled appointment within one (1) week after admission.
- (e) The facility shall obtain written verification of the placing agent's authority to place the child at the time of admission.

(f) The facility shall obtain written authority for medical care for the child from the placing agent at the time of admission.

(g) The agency shall comply with the Interstate Compact on the Placement of Children, Arkansas Code § 9-29-201 et seq., when admitting children from outside Arkansas, if applicable.

(h) The facility shall establish that all persons referred for admission are between sixteen (16) and eighteen (18) years of age at the time of admission.

(i)(1) Residents may remain in the program after reaching eighteen (18) years of age with the reason for continued placement documented.

(2) The resident shall be discharged no later than their twenty-first birthday.

(j) At the time of an admission, the following information shall be documented in the child's record:

(1) Name, signature, and role or relationship of the person who relinquished the child into care;

(2) A brief description of the circumstances requiring admission;

(3) The date and time of the admission;

(4) A brief description of the child's history, if known, including behavioral history;

(5) Any known medical history and known current health conditions;

(6) All medications currently prescribed for the child, if known and available;

and

(7) The child's current behavior or known emotional condition.

(k) Intake information shall be completed on each child in care within ten (10) working days after admission.

(l) The intake shall include:

(1) Demographic information on the child and parent or parents, including:

(A) Name;

(B) Address;

(C) Birth date;

(D) Gender;

- (E) Race; and
  - (F) Religious preference;
  - (2) A factual description of the circumstances requiring placement;
  - (3) A brief social history of the family;
  - (4) The child's current legal status or custody; and
  - (5) Any history of previous placements outside the family.
- (m)(1) The facility shall:
- (A) Obtain copies of legal documents within thirty (30) days of admission;

or

- (B) Document its attempts to obtain the documents.
- (2) The legal documents shall include without limitation:
  - (A) Birth certificates;
  - (B) Social Security cards; and
  - (C) Court orders.

(n) A dependent juvenile child of a parent who is in the custody of the Division of Children and Family Services shall be subject to all rules regarding:

- (1) Space;
- (2) Ratio;
- (3) Health; and
- (4) Safety.

(o) Facilities that have an adult program shall provide sleeping and living arrangements to ensure separation of adults from children.

**Authority.** Arkansas Code § 9-28-403.

### **9 CAR § 31-704. Eligibility requirements.**

For a child to be eligible for placement into the independent living program, the agency shall document:

- (1) An evaluation by the caseworker to determine that placement into the independent living program does not present a health or safety risk to the children;

- (2) The resident is at least sixteen (16) years of age;
- (3)(A) The resident is actively engaged in an educational program such as:
  - (i) High school;
  - (ii) General Educational Development (GED);
  - (iii) Vocational training; or
  - (iv) Postsecondary education, including college.

(B) If the child has completed all educational requirements according to state law, he or she shall be employed or actively involved in a supervised job search program; and

(4) The resident is working towards mastering basic life skills, including without limitation:

- (A) Money management;
- (B) Food management;
- (C) Personal appearance;
- (D) Birth control and personal health and hygiene;
- (E) Housekeeping;
- (F) Transportation;
- (G) Emergency and safety skills;
- (H) Knowledge of community resources;
- (I) Interpersonal skills;
- (J) Legal skills;
- (K) Housing;
- (L) Educational planning; and
- (M) Job-seeking and job maintenance skills.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-705. Assessment and case planning.**

(a) The agency shall assign a caseworker to each child, who is responsible for doing:

- (1) Assessments;
- (2) Case planning; and
- (3) Casework services.

(b)(1) A plan of safe care shall be developed for all children with physical limitations, medical conditions, or behaviors that are indicative of harm to self or others, including without limitation:

- (A) Arson;
- (B) Physical aggression;
- (C) Sexual aggression;
- (D) Suicidal behaviors; or
- (E) Other self-harming tendencies.

(2) This plan shall:

- (A) Identify the behavior or problem; and
- (B) Specify the safeguards that are to be implemented.

(3) The agency shall:

- (A) Document that the childcare staff are informed of the provisions of the plan; and
- (B) Place a copy of the plan into the child's record.

(c) An assessment of services needed to ensure the health and welfare of the child, including medical history and psychological history, shall be:

- (1) Completed; and
- (2) Included in the case plan.

(d) A case plan shall be developed for each child within thirty (30) days after placement.

(e) A case plan shall be completed and entered into the child's record:

- (1) Showing a goal of independence; and
- (2) Indicating all persons responsible for services to be provided.

(f) The case plan shall contain, at the minimum:

- (1) Specific needs;
- (2) Plan for meeting needs;

(3) Special treatment issues, for example, psychotropic medications, sexual misconduct, and neurological disorders, shall be identified with a statement of how the special needs shall be met;

(4) A plan to ensure the educational needs are met according to applicable state law; and

(5) Date of next review of the case plan.

(g) A copy of the case plan shall be made available to the parent or parents, guardian or guardians, court, or other agencies involved in the delivery of case plan services.

(h) The case plan shall be:

(1) Reviewed at least semiannually; and

(2) Updated to reflect progress.

**Authority.** Arkansas Code § 9-28-403.

### **9 CAR § 31-706. Children's records.**

(a) The agency shall keep a confidential case record for each child that includes the following:

(1) Demographic information;

(2) A plan of safe care, if applicable;

(3) A complete intake;

(4) Consents, including consent for medical care and authority to place the child;

(5) Interstate Compact on the Placement of Children, Arkansas Code § 9-29-201 et seq., information, if applicable;

(6) Case plans and case plan reviews;

(7) Copies of legal documents, for example, birth certificate, Social Security card, court orders, or documentation of its attempts to obtain the documents;

(8) Physical exams and immunization records or documentation of its attempts to obtain the documents;

- (9) Psychological reports, if applicable;
- (10) Educational reports, if applicable;
- (11) Disciplinary and incident reports, if applicable;
- (12) Documentation of casework services and child contact; and
- (13) Discharge statement.

(b) Records shall be kept for five (5) years from the date of discharge, unless otherwise specified by Arkansas law.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-707. Behavior management.**

- (a) The agency shall have a written discipline policy that is consistently followed.
- (b) Discipline shall be directed toward teaching the child acceptable behavior and self-control.
- (c) Discipline shall be appropriate to the child's:
  - (1) Age;
  - (2) Development; and
  - (3) History.
- (d) The following disciplinary actions shall not be used:
  - (1) Denial of:
    - (A) Meals;
    - (B) Sleep;
    - (C) Shelter;
    - (D) Essential clothing; or
    - (E) Case plan activities;
  - (2)(A) Denial of parental visits or regular phone and mail contact with family.
    - (B) Nondisciplinary case planning issues are accepted;
  - (3) Lewd or obscene language;
  - (4) Derogatory comments about the child or the child's:
    - (A) Family;

(B) Race; or

(C) Gender;

(5) Restriction to a room for more than a short period of time without periodic observation;

(6) Restriction to a dark room or area;

(7) Locked isolation;

(8) Physical injury or threat of bodily harm;

(9) Humiliating or degrading action;

(10) Extremely strenuous work or exercise; or

(11) Mechanical or chemical restraints.

(e) Physical restraint:

(1) Shall be initiated only by trained staff, only to prevent injury to:

(A) The child;

(B) Other people; or

(C) Property; and

(2) Shall not be initiated solely as a form of discipline.

(f)(1) Physical restraints shall be performed using minimal force and time necessary.

(2) "Physical restraint" means the application of physical force without the use of any device, for the purpose of restraining the free movement of a resident's body.

(3) Briefly holding a child without undue force in order to calm or comfort or holding a hand to safely escort a child from an initial area to another area is not considered to be a physical restraint.

(g) Documentation of all restraints shall be maintained and include the:

(1) Child's name;

(2) Date;

(3) Time;

(4) Reason;

(5) Staff involved; and

(6) Measures taken prior to restraint.

(h) A child shall not be allowed to administer discipline, except teen parents may discipline their own children under the supervision and guidance of staff.

(i) Searches of a child or a child's personal property shall be for reasons limited to:

(1) Safety and security of children and staff;

(2) Cases of suspected theft; or

(3) Suspicion of possession of items that are not permitted by agency policy.

(j) Any searches requiring removal of clothing shall be done in privacy.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-708. Ratio and supervision.**

(a) The facility shall not exceed its total licensed capacity.

(b)(1) There shall be a staff-to-child ratio of at least:

(A) One to nine (1:9) during waking hours; and

(B) One to twelve (1:12) during sleeping hours.

(2) Staff members' children shall be counted in the ratio.

(c) If any child is under six (6) years of age, the ratio shall be at least one to seven (1:7) at all times.

(d) Only staff who directly supervise children shall be counted in this ratio.

(e) Childcare staff shall be responsible for providing the level of supervision, care, and treatment that is necessary in order to ensure the safety and well-being of each child at the facility, taking into account the child's age, individual differences and abilities, surrounding circumstances, hazards, and risks.

(f)(1) All childcare shift staff counted in the staff-to-child ratio shall remain awake at all times.

(2) House parents are excluded from this requirement.

(g) The facility shall maintain a daily census report to include the child's name and room or building assignment.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-709. Health and medical care.**

(a)(1) Each child shall have a medical exam at least annually.

(2) Health exams need not be repeated during the year if a child moves from an initial facility or agency to another, provided the results of the exam are available to the receiving facility or agency.

(b) Staff shall supervise the administering of all medications.

(c) The administering of all medications, including over-the-counter, shall be logged by the person administering the medication at the time that the medication is given.

(d) The medication log shall include the:

(1) Child's name;

(2) Time and date;

(3) Medication dosage; and

(4) Initials of the person administering the medication.

(e)(1) All medications, excluding Epipens, inhalers, and glucagon kits, shall be kept securely locked and stored according to pharmaceutical recommendations.

(2) An age-appropriate and developmentally capable child may be provided, or have access to, nonnarcotic prescriptions with an approved safety plan.

(3) Examples include without limitation:

(A) Birth control;

(B) Acne cream; and

(C) Topical creams.

(f) Keys to medication storage areas shall be on the premises and readily accessible by staff at all times.

(g) Currently prescribed medications belonging to children shall be returned to the parent or custodian upon discharge.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-710. Program.**

(a) The facility shall ensure that each child receives education in accordance with the Department of Education.

(b) The facility shall:

(1) Teach each child the daily living tasks required as a part of living in a group setting; and

(2) Assign only light chores that are age-appropriate.

(c) The agency shall:

(1) Have a policy regarding each child's money received; and

(2) Ensure that each child's funds are available to that child under staff supervision for personal use.

(d) The facility shall not allow a child's outside employment, chores, or extracurricular activities to interfere with the child's time for:

(1) School;

(2) Sleep;

(3) Family visits; or

(4) Case plan activities.

(e) The facility shall provide each child with adequate and nutritious food.

(f) The facility shall ensure that each child has sufficient sleep for their age and physical condition.

(g) The facility shall instruct each child in good grooming and personal hygiene habits.

(h) The facility shall ensure that each child is provided with their own clothing that is clean, well-fitting, seasonal, and appropriate to age and gender, unless otherwise directed by a physician.

(i) The facility shall ensure that each child in its care is provided with opportunities for regular recreational activities and exercise.

(j) The facility shall provide activities and equipment that are age-appropriate to the children in its care.

(k) The facility shall monitor and time-limit the use of:

- (1) Television;
- (2) Videos;
- (3) Computer games; and
- (4) Other screen time activities.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-711. Grounds.**

- (a) The grounds of the facility shall be kept clean and free of safety hazards.
- (b) The facility shall provide sufficient outdoor recreation space for age-appropriate physical activities.
- (c) Swimming pools shall be inspected and approved annually by the Department of Health.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-712. Buildings.**

- (a) No facility shall be located in:
  - (1) A shopping center;
  - (2) A strip mall; or
  - (3) Other buildings used for commercial activity.
- (b) Unused or vacant portions of a facility shall not be rented, leased, loaned, or otherwise occupied by any commercial or other business entity, or private individuals, not associated with the facility or its management.
- (c) All buildings used by children or staff shall be inspected and approved annually for fire safety by fire department officials.
- (d) All buildings used by children or staff shall be inspected and approved annually for health and sanitation as required by the Department of Health.
- (e) All buildings shall comply with local zoning ordinances and land use requirements where those exist.

(f) All buildings and furnishings shall be:

- (1) Safe;
- (2) Clean; and
- (3) In good repair.

(g)(1) There shall be no more than twelve (12) children in a sleeping unit.

(2) A sleeping unit is considered to be a group of bedrooms.

(h)(1) Sleeping units sharing the same building shall be separated, for example, into different:

- (A) Corridors;
- (B) Wings; or
- (C) Floors.

(2) Sleeping units modified or newly constructed after September 1, 2016, shall comply with this standard.

(i) Licensing shall be notified of any changes to buildings that:

- (1) Affect usage, size, or capacity; or
- (2) Are structural changes.

(j) Building usage shall be approved by licensing prior to resident occupancy, and all required inspections, permits, and authorizations shall be provided.

(k) Any modification to buildings used by children, or an increase in capacity, shall require inspection and approval by the fire department and Department of Health, if applicable.

(l) All parts of buildings used as living, sleeping, or bath areas shall have a heating, ventilating, and air conditioning source that keeps the temperature a:

- (1) Minimum of sixty-five degrees (65°); and
- (2) Maximum of eighty-five degrees (85°).

(m)(1) The facility shall provide a living area that has at least thirty-five square feet (35 sq. ft.) of floor space per child.

(2) The dining area and indoor recreation area may be included in this space.

(n) The facility shall provide a dining room.

(o) The facility shall have a kitchen.

(p)(1) Manufactured homes used as residential facilities shall be tied down and underpinned as required by the Arkansas Manufactured Home Commission.

(2) The home shall obtain an inspection and approval from the commission prior to being licensed.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-713. Bathrooms.**

(a) The facility shall provide bathrooms for the children.

(b) There shall be a separate toilet, bathtub or shower, and sink for every six (6) children.

(c) There shall be an adequate supply of hot and cold running water.

(d) The bathroom shall be clean and sanitary.

(e) There shall be separate bath and toilet facilities for males and females.

(f) There shall be an adequate supply of:

(1) Soap;

(2) Towels; and

(3) Tissue.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-714. Sleeping arrangements.**

(a) The facility shall provide bedrooms for the children.

(b) There shall be no more than four (4) children per bedroom.

(c) There shall be at least fifty square feet (50 sq. ft.) of floor space per child in each bedroom.

(d) No child shall share a bedroom with a child of the opposite gender.

(e) Each child shall have a separate bed with a mattress, sheets, pillow, pillowcase, and adequate cover, all in good condition.

(f) Beds shall be positioned to ensure that all children can easily exit the room in

case of emergency.

(g) Bedding shall be changed at least weekly, more often if needed.

(h) Each child shall have an area to store personal belongings.

(i) Staff sleeping quarters shall be separate from children's sleeping rooms.

(j) Room arrangements shall be based on characteristics of each resident to ensure the safety of each child.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-715. Safety.**

(a) The facility shall have an operable telephone or comparable communication system.

(b)(1) The facility shall have a continuous supply of clean drinking water.

(2) If the water source is not a municipal system, the source shall be approved by the Department of Health annually.

(c) A private sewage and septic system shall be approved initially and upon any increase in capacity by the department.

(d) There shall be operational smoke detectors:

(1) Near the cooking area and heating units; and

(2) Within ten feet (10') of each bedroom.

(e)(1) An operational chemical fire extinguisher or other fire suppression system approved by local fire inspection officials shall be in the cooking area of each building.

(2) Approval of the fire suppression system shall be documented.

(f) There shall be an emergency evacuation plan diagramed and posted in each building that is used by children.

(g) Fire drills shall be practiced with children each month.

(h) Severe weather drills shall be practiced with children quarterly.

(i) A record of drills shall be maintained, showing the:

(1) Date and time of day of the drill;

(2) Number of participants; and

- (3) Length of time required to reach safety.
- (j) Each child shall be instructed in emergency procedures at the time of admission.
- (k) The facility shall have proof of current rabies vaccinations for all household pets as required by Arkansas law.
- (l) No child shall be allowed to operate dangerous machinery or equipment, including firearms, without proper adult supervision and following manufacturers' guidelines for:
  - (1) Age;
  - (2) Safety precautions; and
  - (3) Safety gear.
- (m) The agency shall have policies and procedures for carrying, storage, and use of all firearms located at the facility.
- (n) All firearms shall be:
  - (1) Maintained in a secure, locked location; or
  - (2) Secured by a trigger lock.
- (o) All ammunition shall be secured and locked separately from firearms unless they are stored in a safe, for example, a handgun safe or a long gun safe.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-716. Transportation.**

- (a) The facility shall have agency-procured transportation available at all times.
- (b) The facility vehicle or vehicles shall not be used for personal use unless other facility transportation is not available.
- (c) Any vehicle used to transport children shall be:
  - (1) In safe working condition; and
  - (2) Maintained in compliance with motor vehicle laws.
- (d) Any vehicle used to transport children shall be insured.
- (e) Children shall be transported only by an authorized person possessing a valid driver's license.

(f) Children shall be transported according to Arkansas law, including without limitation:

- (1) Use of safety belts;
- (2) Use of child safety seats; and
- (3) Smoking restrictions.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-717. Discharge.**

(a) The discharge shall be planned by agency staff.

(b) The agency may discharge a child on an emergency basis if failure to do so could result in:

- (1) Harm to the child;
- (2) Harm to others; or
- (3) Significant property damage.

(c) A child shall be discharged to the custody of the child's parent or a person with authorization from the parent, guardian, or a person authorized by court order to assume custody of the child.

(d) The agency shall:

(1) Complete a discharge statement on each child that includes a:

- (A) Discharge date; and
- (B) Reason for discharge; and

(2) Provide a copy of it to the child's custodian.

(e) Documentation of the discharge shall be maintained in the child's record.

**Authority.** Arkansas Code § 9-28-403.

**Subpart 8. Independent Living Family Style Care**

**9 CAR § 31-801. Generally.**

(a) In addition to all standards in 9 CAR § 31-201 et seq., the following standards shall be met.

(b) Agencies holding an independent living family style care license shall provide residential care in a homelike setting while preparing the residents, sixteen (16) years of age and older, for living independently.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-802. Agency responsibilities.**

The agency shall have written policies and procedures specific to the program, which shall include:

- (1) Written rules of conduct;
- (2) A plan for reduced supervision;
- (3) Transportation for residents;
- (4) Outside employment for residents;
- (5) Medication management; and
- (6) Social activities off-campus.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-803. Admission.**

(a) The agency shall establish written criteria for admitting and excluding children.

(b) The facility shall not admit any child for whom the facility cannot provide adequate care.

(c) Each child shall have a:

- (1) Medical exam no more than one (1) year before admission; or
- (2) Documented appointment date for an exam within one (1) week after

admission.

(d) Each child shall have:

- (1) Proof of current immunizations;

- (2) A letter of exemption in accordance with the Department of Health; or
- (3) A scheduled appointment within one (1) week after admission.

(e) The facility shall obtain written verification of the placing agent's authority to place the child at the time of admission.

(f) The facility shall obtain written authority for medical care for the child from the placing agent at the time of admission.

(g) The agency shall comply with the Interstate Compact on the Placement of Children, Arkansas Code § 9-29-201 et seq., when admitting children from outside Arkansas, if applicable.

(h) The facility shall establish that all persons referred for admission are between sixteen (16) and eighteen (18) years of age at the time of admission.

(i)(1) Residents may remain in the program after reaching eighteen (18) years of age with the reason for continued placement documented.

- (2) The resident shall be discharged no later than their twenty-first birthday.

(j) At the time of an admission, the following information shall be documented in the child's record:

- (1) Name, signature, and role or relationship of the person who relinquished the child into care;

- (2) A brief description of the circumstances requiring admission;

- (3) The date and time of the admission;

- (4) A brief description of the child's history, if known, including behavioral history;

- (5) Any known medical history and known current health conditions;

- (6) All medications currently prescribed for the child, if known and available;

and

- (7) The child's current behavior or known emotional condition.

(k) Intake information shall be completed on each child in care within ten (10) working days after admission.

(l) The intake shall include:

- (1) Demographic information on the child and parent or parents, including:

- (A) Name;
  - (B) Address;
  - (C) Birth date;
  - (D) Gender;
  - (E) Race; and
  - (F) Religious preference;
  - (2) A factual description of the circumstances requiring placement;
  - (3) A brief social history of the family;
  - (4) The child's current legal status or custody; and
  - (5) Any history of previous placements outside the family.
- (m)(1) The facility shall:
- (A) Obtain copies of legal documents within thirty (30) days of admission;

or

- (B) Document its attempts to obtain the documents.
- (2) The legal documents shall include without limitation:
  - (A) Birth certificates;
  - (B) Social Security cards; and
  - (C) Court orders.

(n) A dependent juvenile child of a parent who is in the custody of the Division of Children and Family Services shall be subject to all rules regarding:

- (1) Space;
- (2) Ratio;
- (3) Health; and
- (4) Safety.

(o) Facilities that have an adult program shall provide sleeping and living arrangements to ensure separation of adults from children.

**Authority.** Arkansas Code § 9-28-403.

### **9 CAR § 31-804. Eligibility requirements.**

For a child to be eligible for placement into the independent living program, the agency shall document:

(1) An evaluation by the caseworker to determine that placement into the independent living program does not present a health or safety risk to the children;

(2) The resident is at least sixteen (16) years of age;

(3)(A) The resident is actively engaged in an educational program such as:

(i) High school;

(ii) General Educational Development (GED);

(iii) Vocational training; or

(iv) Postsecondary education, including college.

(B) If the child has completed all educational requirements according to state law, they shall be employed or actively involved in a supervised job search program; and

(4) The resident is working towards mastering basic life skills, including without limitation:

(A) Money management;

(B) Food management;

(C) Personal appearance;

(D) Birth control and personal health and hygiene;

(E) Housekeeping;

(F) Transportation;

(G) Emergency and safety skills;

(H) Knowledge of community resources;

(I) Interpersonal skills;

(J) Legal skills;

(K) Housing;

(L) Educational planning; and

(M) Job-seeking and job maintenance skills.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-805. Assessment and case planning.**

(a) The agency shall assign a caseworker to each child who is responsible for doing:

- (1) Assessments;
- (2) Case planning; and
- (3) Casework services.

(b)(1) A plan of safe care shall be developed for all children with physical limitations, medical conditions, or behaviors that are indicative of harm to self or others, including without limitation:

- (A) Arson;
- (B) Physical aggression;
- (C) Sexual aggression;
- (D) Suicidal behaviors; or
- (E) Other self-harming tendencies.

(2) This plan shall:

- (A) Identify the behavior or problem; and
- (B) Specify the safeguards that are to be implemented.

(3) The agency shall:

(A) Document that the childcare staff are informed of the provisions of the plan; and

(B) Place a copy of the plan into the child's record.

(c) An assessment of services needed to ensure the health and welfare of the child, including medical history and psychological history, shall be:

- (1) Completed; and
- (2) Included in the case plan.

(d) A case plan shall be developed for each child within thirty (30) days after placement.

(e) A case plan shall be completed and entered into the child's record:

- (1) Showing a goal of independence; and

- (2) Indicating all persons responsible for services to be provided.
- (f) The case plan shall contain, at the minimum:
  - (1) Specific needs;
  - (2) Plan for meeting needs;
  - (3) Special treatment issues, for example, psychotropic medications, sexual misconduct, and neurological disorders, shall be identified with a statement of how the special needs shall be met;
  - (4) A plan to ensure the educational needs are met according to applicable state law; and
  - (5) Date of next review of the case plan.
- (g) A copy of the case plan shall be made available to the parent or parents, guardian or guardians, court, or other agencies involved in delivering case plan services.
- (h) The case plan shall be:
  - (1) Reviewed at least semiannually; and
  - (2) Updated to reflect progress.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-806. Children's records.**

- (a) The agency shall keep a confidential case record for each child that includes the following:
  - (1) Demographic information;
  - (2) Plan of safe care, if applicable;
  - (3) A complete intake;
  - (4) Consents, including consent for medical care and authority to place the child;
  - (5) Interstate Compact on the Placement of Children, Arkansas Code § 9-29-201 et seq., information, if applicable;
  - (6) Case plans and case plan reviews;

(7) Copies of legal documents, for example, birth certificate, Social Security card, court orders, or documentation of its attempts to obtain the documents;

(8) Physical exams and immunization records or documentation of its attempts to obtain the documents;

(9) Psychological reports, if applicable;

(10) Educational reports, if applicable;

(11) Disciplinary and incident reports, if applicable;

(12) Documentation of casework services and child contact; and

(13) Discharge statement.

(b) Records shall be kept for five (5) years from the date of discharge, unless otherwise specified by Arkansas law.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-807. Behavior management.**

(a) The agency shall have a written discipline policy that is consistently followed.

(b) Discipline shall be directed toward teaching the child acceptable behavior and self-control.

(c) Discipline shall be appropriate to the child's:

(1) Age;

(2) Development; and

(3) History.

(d) The following disciplinary actions shall not be used:

(1) Denial of:

(A) Meals;

(B) Sleep;

(C) Shelter;

(D) Essential clothing; or

(E) Case plan activities;

(2)(A) Denial of parental visits or regular phone and mail contact with family.

- (B) Nondisciplinary case planning issues are accepted;
- (3) Lewd or obscene language;
- (4) Derogatory comments about the child or the child's:
  - (1) Family;
  - (2) Race; or
  - (3) Gender;
- (5) Restriction to a room for more than a short period of time without periodic observation;
- (6) Restriction to a dark room or area;
- (7) Locked isolation;
- (8) Physical injury or threat of bodily harm;
- (9) Humiliating or degrading action;
- (10) Extremely strenuous work or exercise; or
- (11) Mechanical or chemical restraints.

(e) Physical restraint:

- (1) Shall be initiated only by trained staff, only to prevent injury to:
  - (A) The child;
  - (B) Other people; or
  - (C) Property; and
- (2) Shall not be initiated solely as a form of discipline.

(f)(1) Physical restraints shall be performed using minimal force and time necessary.

(2) "Physical restraint" means the application of physical force without the use of any device, for the purpose of restraining the free movement of a resident's body.

(3) Briefly holding a child without undue force in order to calm or comfort them or holding a hand to safely escort a child from one (1) area to another is not considered a physical restraint.

(g) Documentation of all restraints shall be maintained and include the:

- (1) Child's name;
- (2) Date;

- (3) Time;
- (4) Reason;
- (5) Staff involved; and
- (6) Measures taken prior to restraint.

(h) A child shall not be allowed to administer discipline, except teen parents who may discipline their own children under the supervision and guidance of staff.

(i) Searches of a child or a child's personal property shall be for reasons limited to:

- (1) Safety and security of children and staff;
- (2) Cases of suspected theft; or
- (3) Suspicion of possession of items that are not permitted by agency policy.

(j) Any searches requiring removal of clothing shall be done in privacy.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-808. Ratio and supervision.**

(a) The facility shall use a house parent staffing model.

(b) The facility shall not exceed its total licensed capacity.

(c) The facility shall have no more than eight (8) children in each unit, including the house parent's children.

(d)(1) There shall be a staff-to-child ratio of at least one to eight (1:8) at all times.

(2) Staff members' children shall be counted in the ratio.

(e) Childcare staff shall be responsible for providing the level of supervision, care, and treatment necessary to ensure the safety and well-being of each child at the facility, taking into account the child's age, individual differences and abilities, surrounding circumstances, hazards, and risks.

(f) The facility shall maintain a daily census report to include the child's name and room or building assignment.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-809. Health and medical care.**

(a)(1) Each child shall have a medical exam at least annually.

(2) Health exams need not be repeated during the year if a child moves from one (1) facility or agency to another, provided the results of the exam are available to the receiving facility or agency.

(b) Staff shall supervise the administering of all medications.

(c) The administering of all medications, including over-the-counter, shall be logged by the person administering the medication at the time that the medication is given.

(d) The medication log shall include the:

(1) Child's name;

(2) Time and date;

(3) Medication dosage; and

(4) Initials of the person administering the medication.

(e)(1) All medications, excluding Epipens, inhalers, and glucagon kits, shall be kept securely locked and stored according to pharmaceutical recommendations.

(2) An age-appropriate and developmentally capable child may be provided or have access to nonnarcotic prescriptions with an approved safety plan.

(3) Examples include without limitation:

(A) Birth control;

(B) Acne cream; and

(C) Topical creams.

(f) Keys to medication storage areas shall be kept on the premises and readily accessible by staff at all times.

(g) Currently prescribed medications belonging to children shall be returned to the parent or custodian upon discharge.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-810. Program.**

(a) The facility shall ensure that each child receives education in accordance with the Department of Education.

(b) The facility shall:

(1) Teach each child the daily living tasks required as a part of living in a group setting; and

(2) Assign only light chores that are age-appropriate.

(c) The agency shall:

(1) Have a policy regarding each child's money received; and

(2) Ensure that each child's funds are available to that child, under staff supervision, for personal use.

(d) The facility shall not allow a child's outside employment, chores, or extracurricular activities to interfere with the child's time for:

(1) School;

(2) Sleep;

(3) Family visits; or

(4) Case plan activities.

(e) The facility shall provide each child with adequate and nutritious food, routinely eaten in the:

(1) Home;

(2) Cottage; or

(3) Unit.

(f) The facility shall ensure that each child has sufficient sleep for their age and physical condition.

(g) The facility shall instruct each child in good grooming and personal hygiene habits.

(h) The facility shall ensure that each child is provided with their own clothing that is clean, well-fitting, seasonal, and appropriate to age and gender, unless otherwise directed by a physician.

(i) The facility shall ensure that each child in its care is provided with opportunities for regular recreational activities and exercise.

(j) The facility shall provide activities and equipment that are age-appropriate to the children in its care.

(k) The facility shall monitor and time-limit the use of:

- (1) Television;
- (2) Videos;
- (3) Computer games; and
- (4) Other screen time.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-811. Grounds.**

(a) The grounds of the facility shall be kept clean and free of safety hazards.

(b) The facility shall provide sufficient outdoor recreation space for age-appropriate physical activities.

(c) Swimming pools shall be inspected and approved annually by the Department of Health.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-812. Buildings.**

(a)(1) The building shall be a single-style dwelling, such as a:

- (A) House;
- (B) Cottage; or
- (C) Duplex in which the facility occupies both units.

(2) Multiple units may be located on campus.

(b) The building shall house only the independent living family style care license type.

(c) No facility shall be located in:

- (1) A shopping center;
- (2) A strip mall; or

(3) Other buildings that are used for commercial activity.

(d) Unused or vacant portions of a facility shall not be rented, leased, loaned, or otherwise occupied by any commercial or other business entity, or private individuals, not associated with the facility or its management.

(e) All buildings used by children or staff shall be inspected and approved annually for fire safety by fire department officials.

(f) All buildings used by children or staff shall be inspected and approved annually for health and sanitation as required by the Department of Health.

(g) All buildings shall comply with local zoning ordinances and land use requirements where those exist.

(h) All buildings and furnishings shall be:

- (1) Safe;
- (2) Clean; and
- (3) In good repair.

(i) Licensing shall be notified of any changes to buildings that:

- (1) Affect their usage, size, or capacity; or
- (2) Are structural changes.

(j) Building usage shall be approved by licensing, prior to resident occupancy, and all required inspections, permits, and authorizations shall be provided.

(k) Any modification to buildings used by children or an increase in capacity shall require inspection and approval by the fire department and Department of Health, if applicable.

(l) All parts of buildings that are used as living, sleeping, or bath areas shall have a heating, ventilating, and air conditioning source that keeps the temperature to a:

- (1) Minimum of sixty-five degrees (65°); and
- (2) Maximum of eighty-five degrees (85°).

(m)(1) The facility shall provide a living area that has at least thirty-five square feet (35 sq. ft.) of floor space per child.

(2) The dining area and indoor recreation area may be included in this space.

(n) The facility shall provide a dining area.

(o) The facility shall have a kitchen.

(p)(1) Manufactured homes used as residential facilities shall be tied down and underpinned as required by the Arkansas Manufactured Home Commission.

(2) The home shall obtain an inspection and approval from the commission prior to being licensed.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-813. Bathrooms.**

(a) The facility shall provide bathrooms for the children.

(b) There shall be a separate toilet, bathtub or shower, and sink for every six (6) children.

(c) There shall be an adequate supply of hot and cold running water.

(d) The bathroom shall be clean and sanitary.

(e) There shall be an adequate supply of:

(1) Soap;

(2) Towels; and

(3) Tissue.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-814. Sleeping arrangements.**

(a) The facility shall provide bedrooms for the children.

(b) There shall be no more than four (4) children per bedroom.

(c) There shall be at least fifty square feet (50 sq. ft.) of floor space per child in each bedroom.

(d) No child shall share a bedroom with a child of the opposite gender.

(e) Each child shall have a separate bed with a mattress, sheets, pillow, pillowcase, and adequate cover, all in good condition.

(f) Bedding shall be changed at least weekly, more often if needed.

- (g) Each child shall have an area to store personal belongings.
- (h) Staff sleeping quarters shall be separate from children's sleeping rooms.
- (i) Room arrangements shall be based on characteristics of each resident to ensure the safety of each child.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-815. Safety.**

- (a) The facility shall have an operable telephone or comparable communication system.
- (b)(1) The facility shall have a continuous supply of clean drinking water.
  - (2) If the water source is not a municipal system, the source shall be approved by the Department of Health annually.
- (c) A private sewage and septic system shall be approved initially and upon any increase in capacity by the department.
- (d) There shall be operational smoke detectors:
  - (1) Near the cooking area and heating units; and
  - (2) Within ten feet (10') of each bedroom.
- (e)(1) An operational chemical fire extinguisher or other fire suppression system approved by local fire inspection officials shall be in the cooking area of each building.
  - (2) Approval of the fire suppression system shall be documented.
- (f) There shall be an emergency evacuation plan diagramed and posted in each building that is used by children.
- (g) Fire drills shall be practiced with children each month.
- (h) Severe weather drills shall be practiced with children quarterly.
- (i) A record of drills shall be maintained, showing the:
  - (1) Date and time of day of the drill;
  - (2) Number of participants; and
  - (3) Length of time required to reach safety.
- (j) Each child shall be instructed in emergency procedures at admission.

(k) The facility shall have proof of current rabies vaccinations for all household pets as required by Arkansas law.

(l) No child shall be allowed to operate dangerous machinery or equipment, including firearms, without proper adult supervision and following manufacturers' guidelines for:

- (1) Age;
- (2) Safety precautions; and
- (3) Safety gear.

(m) The agency shall have policies and procedures for carrying, storage, and use of all firearms located at the facility.

(n) All firearms shall be:

- (1) Maintained in a secure, locked location; or
- (2) Secured by a trigger lock.

(o) All ammunition shall be secured and locked separately from firearms unless they are stored in a safe, for example, a handgun safe or a long gun safe.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-816. Transportation.**

(a) The facility shall have agency-procured transportation available at all times.

(b) The facility vehicle or vehicles shall not be used for personal use unless other facility transportation is available.

(c) Any vehicle used to transport children shall be:

- (1) In safe working condition; and
- (2) Maintained in compliance with motor vehicle laws.

(d) Any vehicle used to transport children shall be insured.

(e) Children shall be transported only by an authorized person possessing a valid driver's license.

(f) Children shall be transported according to Arkansas law, including without limitation:

- (1) Use of safety belts;
- (2) Use of child safety seats; and
- (3) Smoking restrictions.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-817. Discharge.**

- (a) The discharge shall be planned by agency staff.
- (b) The agency may discharge a child on an emergency basis if failure to do so could result in:
  - (1) Harm to the child;
  - (2) Harm to other persons; or
  - (3) Significant property damage.
- (c) A child shall be discharged to the custody of the child's parent or a person with authorization from the parent or guardian, or a person authorized by court order to assume custody of the child.
- (d) The agency shall:
  - (1) Complete a discharge statement on each child that includes a:
    - (A) Discharge date; and
    - (B) Reason for discharge; and
  - (2) Provide a copy of it to the child's custodian.
- (e) Documentation of the discharge shall be maintained in the child's record.

**Authority.** Arkansas Code § 9-28-403.

**Subpart 9. Transitional Living**

**9 CAR § 31-901. Generally.**

- (a) In addition to all standards in 9 CAR § 31-201 et seq., the following standards shall be met.

(b) Agencies holding a transitional living license will provide a continuum of care for youth who have turned eighteen (18) years of age while in a licensed or exempt program.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-902. Agency responsibilities.**

(a) The agency's written policies and procedures, specific to the transitional living program, shall include:

- (1) Written rules of conduct and potential consequences for rule violations;
- (2) Transportation for residents; and
- (3) Medication management.

(b) Each youth in the transitional living program will be assigned a specific caseworker to complete casework services according to the case plan.

(c) The case plan shall be updated to reflect current goals.

(d) The case plan shall include a budget that is developed jointly by the youth and the caseworker.

(e) The case plan shall include written rules of conduct for the youth that include without limitation an agreement to abide by all federal, state, and local laws including curfew ordinances.

(f) Written policies shall include emergency and crisis intervention procedures, including the youth's twenty-four-hour ability to contact the agency.

(g) The assigned caseworker shall:

- (1) Visit the youth's residence at least once per month; and
- (2) Document the visit and any observations in the case record.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-903. Eligibility requirements.**

Eligibility for placement into the transitional living program includes:

(1) An evaluation by the caseworker or administrative staff to determine that placement into the transitional living program does not present a health or safety risk to the youth or the community;

(2) The youth is at least eighteen (18) years of age and is being transferred from a licensed or exempt program into the transitional living program;

(3)(A) The resident is actively engaged in an educational program such as:

- (i) High school;
- (ii) General Educational Development (GED);
- (iii) Vocational training; or
- (iv) Postsecondary education, such as college.

(B) When the youth has completed all educational requirements according to state law, they shall be employed or actively involved in a supervised job search program; and

(4) The resident is knowledgeable in basic life skills, including without limitation:

- (A) Money management;
- (B) Food management;
- (C) Personal appearance;
- (D) Birth control and personal health and hygiene;
- (E) Housekeeping;
- (F) Transportation;
- (G) Emergency and safety skills;
- (H) Knowledge of community resources;
- (I) Interpersonal skills;
- (J) Legal skills;
- (K) Housing;
- (L) Educational planning; and
- (M) Job-seeking and job maintenance skills.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-904. Living unit — Health and safety.**

(a)(1) Each living unit shall have a bathroom, kitchen, and other standard features for living independently.

(2) Any exceptions, for example, laundry arrangements, shall be noted in the case plan or accompanying documentation.

(b) The living unit shall be accessible to community resources, including public transportation, if necessary.

(c) Living units shall not be shared by different license types.

(d) There shall be no more than four (4) residents in a living unit.

(e) The living unit shall be:

(1) Clean;

(2) Safe; and

(3) In good repair.

(f) There shall be operational smoke alarms within ten feet (10') of the kitchen and each bedroom.

(g) There shall be an operational chemical fire extinguisher readily accessible near the cooking area of the living unit and the youth shall be instructed in its use.

(h) The living unit shall have an operable telephone, or the youth shall be provided with an alternative means of emergency communication, for example, cell phone.

(i) Any pets shall:

(1) Be approved by the caseworker; and

(2) Have rabies vaccinations as required by law.

(j) No firearms, dangerous weapons, or illegal substances shall be permitted in any living unit.

(k) If the participating youth is the parent of a child living in their care, the parent shall have current cardiopulmonary resuscitation (CPR) and first aid certification and an approved childcare plan.

(l) Each living unit shall be occupied by members of the same gender.

(m) Overnight guests shall have prior approval of the caseworker and cannot

include unrelated members of the opposite gender.

**Authority.** Arkansas Code § 9-28-403.

## **Subpart 10. Psychiatric Residential Treatment Facilities**

### **9 CAR § 31-1001. Generally.**

(a)(1) In addition to all standards in 9 CAR § 31-201 et seq., the following standards shall be met.

(2) Agencies holding a psychiatric residential treatment facilities license shall provide treatment in a nonhospital setting to children who do not require acute care.

(b) A psychiatric residential treatment facility that is also licensed as a sexual rehabilitative program shall also comply with the standards found in 9 CAR § 31-1101 et seq.

**Authority.** Arkansas Code § 9-28-403.

### **9 CAR § 31-1002. Licensing approval and monitoring.**

(a)(1) The agency shall have a written program description that is available to residents and parents or guardians.

(2) The following information shall be included:

- (A) Program philosophy and mission;
- (B) Services and treatment modalities;
- (C) Treatment planning procedures, including medical, dental, and other needs;
- (D) Behavior management program and expectations of each child;
- (E) Levels and privileges, if applicable;
- (F) Admission, exclusion, and discharge criteria;
- (G) Aftercare services; and
- (H) Clinical discharge planning throughout the child's stay that includes

the custodian and child involvement.

(b) The agency shall have written policies and procedures for family therapy, family visitation, and therapeutic passes subject to progress, treatment, and physician's orders.

(c) The agency shall establish and post a written list of children's rights.

(d) The agency shall establish a procedure for hearing children's grievances.

(e)(1) At the discretion of the Child Welfare Agency Licensing Unit, a multidisciplinary team may be asked to assist the licensing specialist in the initial study or during an investigation of a licensing complaint.

(2) This team may include a:

(A) Licensed mental health professional, as recognized by Arkansas Medicaid; or

(B) Person with professional expertise in the appropriate field.

(f) At the discretion of the Child Welfare Agency Licensing Unit, a multidisciplinary team may be asked to assist the licensing specialist during inspections for advisory purposes.

(g) All applicants for a psychiatric residential treatment facility licensed after March 1, 2003, shall obtain a permit of approval from the Arkansas Health Services Agency prior to submitting an application or change of status request to the Child Welfare Agency Review Board.

(h) If a licensee is operating at less than or at the capacity licensed by the board as of March 1, 2021, the licensee shall obtain a permit from the Health Services Permit Agency or the Health Services Permit Commission for any increase in capacity.

(i) Any new license or expansion of capacity by an existing licensee of the board shall require a license and permit from the Office of Long-Term Care or the Health Services Permit Agency.

(j) In addition to any other basis provided by law or rule, the board shall terminate the license that has not been in operation for a consecutive twelve-month period.

(k) The Department of Human Services may recommend to the board the revocation, suspension, or termination of a license for any basis provided by law or rule

including, without limitation, the failure to be in operation or in substantial compliance for a consecutive six-month period.

(l) The department shall conduct quality assurance reviews for each regulated facility, consisting of the following:

(1) A review of treatment structure including without limitation:

(A) Observation of paraprofessional and direct-care staff interaction with patients;

(B) Review of daily activity structure outside of school and treatment;

(C) Review of paraprofessional and direct-care staff training and personnel records;

(D) Review of staff-to-client ratios; and

(E) Completion of client interviews;

(2) An analysis of referral data, statistics, and psychotropic medication prescriptions;

(3) An on-site visit of a regulated facility's operation, to be conducted at least once per year.

(4) Technical assistance and ongoing quality assurance and collaboration as needed; and

(5) The department and its designees may inspect and investigate the quality of care for behavioral health provided to any child admitted to a regulated facility, whether or not the child is an Arkansas resident.

(m) The department may initiate an adverse action against a regulated facility that:

(1) Fails to comply with the provisions of Arkansas Code § 9-28-1301 et seq. or any rule of the department relating to quality of care;

(2) Furnishes or makes any statement or report to the department that is false or misleading;

(3) Refuses or fails to submit required reports or to make available to the department any records required by the department in making an investigation of the agency for quality-of-care purposes;

(4) Refuses or fails to submit to an investigation or to reasonable inspection by

the department;

(5) Retaliates against an employee who in good faith reports a suspected violation of the provisions of Arkansas Code § 9-28-1301 et seq. or the rules promulgated under Arkansas Code § 9-28-1301 et seq.;

(6) Fails to engage in a course of professional conduct in dealing with clients being served by the regulated facility, as defined by rules promulgated under Arkansas Code § 9-28-1301 et seq.; or

(7) Demonstrates gross negligence in carrying out the duties at the regulated facility.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1003. Admission.**

(a) The facility shall not admit any child for whom the facility cannot provide adequate care.

(b) A psychiatric residential treatment facility licensed under the Child Welfare Agency Licensing Act, Arkansas Code § 9-28-401 et seq., and holding a permit from the Health Services Permit Agency or the Health Services Permit Commission shall not admit a child for psychiatric residential treatment unless the child is:

(1) An Arkansas resident;

(2) A child of a parent who is an Arkansas resident;

(3) A child placed by or on behalf of another state's child welfare agency;

(4) A child for whom the facility is being paid by another state's Medicaid program;

(5) A child of an active-duty member or veteran of the uniformed services as defined in Arkansas Code § 6-4-302; or

(6) A nonresident child victim of human trafficking when the regulated facility maintains responsibility for the return of the child to the out-of-state custodian.

(c) Each child shall have a:

(1) Medical exam no more than one (1) year before admission; or

(2) Documented appointment date for an exam within one (1) week after admission.

(d) Each child shall have:

(1) Proof of current immunizations;

(2) A letter of exemption in accordance with the Department of Health; or

(3) A scheduled appointment within one (1) week after admission.

(e) The facility shall obtain written verification of the placing agent's authority to place the child at the time of admission.

(f) The facility shall obtain written authority for medical care for the child from the placing agent at the time of admission.

(g) The agency shall comply with the Interstate Compact on the Placement of Children, Arkansas Code § 9-29-201 et seq., when admitting children from outside Arkansas, if applicable.

(h) The facility shall establish that all persons referred for admission are under eighteen (18) years of age at the time of admission.

(i)(1) Residents may remain in the program after reaching eighteen (18) years of age with the reason for continued placement documented.

(2) The resident shall be discharged no later than their twenty-first birthday.

(j) The facility shall not admit a child under five (5) years of age.

(k) At the time of admission, the following information shall be documented in the child's record:

(1) Name, signature, and role or relationship of the person who relinquished the child into care;

(2) A brief description of the circumstances that require admission;

(3) The date and time of the admission;

(4) A brief description of the child's history, if known, including behavioral history;

(5) Any known medical history and known current health conditions;

(6) All medications currently prescribed for the child, if known and available;

and

(7) The child's current behavior or known emotional condition.

(l) Intake information shall be completed on each child in its care within ten (10) working days after admission.

(m) The intake shall include:

(1) Demographic information on the child and parent or parents, including:

(A) Name;

(B) Address;

(C) Birth date;

(D) Gender;

(E) Race; and

(F) Religious preference;

(2) A factual description of the circumstances that require placement;

(3) A brief social history of the family;

(4) The child's current legal status or custody; and

(5) Any history of previous placements outside the family.

(n)(1) The facility shall:

(A) Obtain copies of legal documents within thirty (30) days of admission;

or

(B) Document its attempts to obtain the documents.

(2) The legal documents shall include without limitation:

(A) Birth certificates;

(B) Social Security cards; and

(C) Court orders.

(o) Facilities that have an adult program shall provide sleeping and living arrangements to ensure separation of adults from children.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1004. Assessment and treatment planning.**

(a) An assessment of services needed to ensure the health and welfare of each

child, including medical history and psychological history, shall be:

- (1) Completed for each child; and
- (2) Included in the treatment plan.

(b)(1) A plan of safe care shall be developed for all children with physical limitations, medical conditions, or behaviors that are indicative of harm to self or others, including without limitation:

- (A) Arson;
- (B) Physical aggression;
- (C) Sexual aggression;
- (D) Suicidal behaviors; or
- (E) Other self-harming tendencies.

(2) This plan shall:

- (A) Identify the behavior or problem; and
- (B) Specify the safeguards that are to be implemented.

(3) The agency shall:

(A) Document that the childcare staff are informed of the provisions of the plan; and

(B) Place a copy of the plan into the child's record.

(c) A treatment plan shall be developed for each resident who is received for care.

(d) The treatment plan shall be developed within thirty (30) days after placement.

(e) The child's treatment plan shall contain, at a minimum:

(1) Specific needs of the child;

(2) Coordination for meeting the child's needs, including medical, dental, and other needs;

(3) Special treatment issues, for example, psychotropic medications, sexual misconduct, and neurological disorders, shall be identified with a statement of how the special needs shall be met;

(4) Trauma-informed programming and clinical services and, when applicable, evidence-based treatments;

(5) Services that will be short-term, target treatment episodes to reduce the

likelihood of re-entry into residential treatment settings;

(6) Services that are family-driven and youth-guided;

(7) Mental health services and clinical services provided by clinical staff as appropriate for the child's needs;

(8) A plan to ensure that the child's educational needs are met according to:

(A) Applicable state and federal law; and

(B) Rules of the Department of Education;

(9) Date of next review of the treatment plan; and

(10) Clinical discharge planning throughout the child's stay that includes both the custodian's and the child's involvement.

(f) A copy of the treatment plan shall be made available to the parent or parents, guardian or guardians, court, or other agencies involved in delivering treatment plan services.

(g) The child's treatment plan shall be:

(1) Reviewed monthly; and

(2) Updated to reflect the child's progress.

(h) The agency therapist shall visit the child monthly to monitor the progress of the plan.

(i) The Department of Human Services and its designees may inspect and investigate the quality of care for behavioral health provided to any child admitted to a regulated facility.

**Authority.** Arkansas Code § 9-28-403.

### **9 CAR § 31-1005. Children's records.**

(a) The agency shall keep a confidential case record for each child that includes the following:

(1) Demographic information;

(2) Plan of safe care, if applicable;

(3) A complete intake;

- (4) Assessments;
- (5) Consents, including consent for medical care and authority to place the child;
- (6) Interstate Compact on the Placement of Children, Arkansas Code § 9-29-201 et seq., information, if applicable;
- (7) Treatment plans and treatment plan reviews;
- (8) Copies of legal documents, for example, birth certificate, Social Security card, court orders, or documentation of its attempts to obtain the documents;
- (9) Physical exams and immunization records or documentation of its attempts to obtain the documents;
- (10) Psychological reports, if applicable;
- (11) Educational reports, if applicable;
- (12) Disciplinary and incident reports, if applicable;
- (13) Daily behavioral observations;
- (14) Nightly visual observations;
- (15) Medication and physician's orders;
- (16) Therapy progress notes;
- (17) Physician notes;
- (18) Documentation of casework services and child contact; and
- (19) Discharge statement.

(b) Records for each child shall be kept for five (5) years from the date of discharge, unless otherwise specified by Arkansas law.

(c) The agency shall establish safeguards to limit access to records by authorized individuals only.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1006. Behavior management.**

- (a) The agency shall have a written discipline policy that is consistently followed.
- (b) Discipline shall be directed toward teaching the child acceptable behavior and

self-control.

(c) Discipline shall be appropriate to the child's:

- (1) Age;
- (2) Development; and
- (3) History.

(d) The following disciplinary actions shall not be used:

(1) Denial of:

- (A) Meals;
- (B) Sleep;
- (C) Shelter;
- (D) Essential clothing; or
- (E) Treatment plan activities;

(2)(A) Denial of parental visits or regular phone and mail contact with family.

(B) Nondisciplinary treatment planning issues are accepted;

(3) Lewd or obscene language;

(4) Derogatory comments about the child or the child's:

- (A) Family;
- (B) Race; or
- (C) Gender;

(5) Restriction to a room for more than a short period of time without periodic observation;

- (6) Restriction to a dark room or area;
- (7) Physical injury or threat of bodily harm;
- (8) Humiliating or degrading action; or
- (9) Extremely strenuous work or exercise.

(e) A child shall not be allowed to administer discipline.

(f) Searches of a child or a child's personal property shall be for reasons limited to:

- (1) Safety and security of children and staff;
- (2) Cases of suspected theft; or
- (3) Suspicion of possession of items that are not permitted by agency policy.

(g) Any searches requiring removal of clothing shall be:

- (1) Done in privacy; and
- (2) Witnessed by two (2) staff of the same gender as the child.

(h) The agency shall have a written policy governing the use of behavior control measures with children, including:

- (1) Physical, mechanical, or chemical restraints; and
- (2) Seclusion rooms.

(i)(1) Physical restraints shall be performed using minimal force and time necessary.

(2) "Physical restraint" means the application of physical force without the use of any device, for the purpose of restraining the free movement of a resident's body.

(3) Briefly holding a child without undue force in order to calm or comfort them or holding a hand to safely escort a child from one (1) area to another is not considered a physical restraint.

(j)(1) Physical restraint:

(A) Shall be initiated only by staff who are trained by a certified instructor in a nationally recognized curriculum, and only to prevent injury to:

- (i) The child;
- (ii) Other people; or
- (iii) Property; and

(B) Shall not be initiated solely as a form of discipline.

(2) The agency shall maintain documentation that staff is deemed competent in physical restraint.

(k)(1) Chemical restraints shall be used only if ordered by a physician.

(2) A chemical restraint is an emergency behavioral intervention that uses pharmaceuticals by topical application, oral administration, injection, or other means to modify a child's behavior.

(3) Prescribed treatment medications that have a secondary effect on the child's behavior are not considered chemical restraint.

(l) Seclusion or mechanical or physical restraints shall be used only if ordered by a

physician.

(m)(1) Each written order for a physical restraint or seclusion is limited to:

(A) Two (2) hours for children nine through seventeen (9 – 17) years of age; or

(B) One (1) hour for children under nine (9) years of age.

(2) A physician, clinically qualified registered nurse, or other authorized licensed independent practitioner shall conduct a face-to-face assessment of the child within one (1) hour after the initiation of the ordered intervention.

(n)(1) The original order may only be renewed in accordance with these limits for up to a total of twenty-four (24) hours.

(2) After the original order expires, a physician, clinically qualified registered nurse, or other authorized licensed independent practitioner shall see and assess the child before issuing a new order.

(o) Staff shall search each child before placement into seclusion, and all potentially hazardous items shall be removed.

(p) Staff shall continually monitor each child in seclusion or restraints and shall document.

(q) Documentation of all restraints shall be maintained and shall include the:

- (1) Child's name;
- (2) Date;
- (3) Time;
- (4) Reason;
- (5) Staff involved; and
- (6) Measures taken prior to restraint.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1007. Personnel.**

The agency shall have:

- (1) A physician currently licensed by the Arkansas State Medical Board who

has experience in the practice of psychiatry;

(2) A director of nursing or nurse manager currently licensed in Arkansas as a registered nurse;

(3) A clinical director who:

(A) Has at least a master's degree in a human services field; and

(B) Is currently licensed in Arkansas as a mental health professional, as recognized by Arkansas Medicaid;

(4) One (1) or more therapists who:

(A) Has at least a master's degree in a human services field; and

(B) Is currently licensed as a mental health professional, as recognized by Arkansas Medicaid; and

(5) A therapist assigned to each child who is responsible for:

(A) Assessments;

(B) Treatment planning; and

(C) Casework services.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1008. Ratio and supervision.**

(a) The facility shall not exceed its total licensed capacity.

(b) Childcare staff shall be responsible for providing the level of supervision, care, and treatment that is necessary to ensure the safety and well-being of each child at the facility, taking into account the child's age, individual differences and abilities, surrounding circumstances, hazards, and risks.

(c) Staff-to-child ratio shall be at least:

(1) One to six (1:6) during waking hours; and

(2) One to eight (1:8) during sleeping hours.

(d) Only staff who directly supervise children shall be counted in this ratio.

(e) All childcare shift staff counted in the staff-to-child ratio shall remain awake at all times.

(f) Supervision during sleeping hours shall include a visual check on each child at least every thirty (30) minutes.

(g) The visual checks shall be documented.

(h) The facility shall maintain a daily census report to include the child's name and room or building assignment.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1009. Health and medical care.**

(a) The agency shall have a written policy for conducting health, including all medical and dental needs, and related exams and assessments upon admission.

(b)(1) Each child shall have a medical exam at least annually.

(2) Health exams need not be repeated during the year if a child moves from one (1) facility or agency to another, provided the results of the exam are available to the receiving facility or agency.

(c) The agency shall have a written plan for prescribing, receiving, storing, administering, and accounting for all medications, including medications in the child's possession at the time of admission.

(d) All medications shall be kept securely locked and stored according to pharmaceutical recommendations.

(e) Keys to medication storage areas shall be on the premises and readily accessible by staff at all times.

(f) All controlled substances shall be kept under double lock.

(g) Medication shall be administered in accordance with state and federal laws.

(h) The administering of all medications, including over-the-counter, shall be logged by the person administering the medication at the time that the medication is given.

(i) The medication log shall include the:

(1) Child's name;

(2) Time and date;

(3) Medication dosage; and

(4) Initials of the person administering the medication.

(j) Disposal of unused medications and contaminated medical supplies shall follow established medical procedures.

(k) Any stimulant or psychotropic medicine requiring intra-muscular injection shall be administered only by a:

(1) Physician;

(2) Registered nurse; or

(3) Licensed practical nurse.

(l) When psychotropic medications are prescribed by a physician, they shall be used in conjunction with other treatment interventions.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1010. Program.**

(a) The facility shall ensure each child receives education in accordance with all applicable state and federal laws.

(b) The facility shall:

(1) Teach each child the daily living tasks required as a part of living in a group setting; and

(2) Assign only light chores that are age-appropriate.

(c) The agency shall:

(1) Have a policy regarding each child's money received; and

(2) Ensure that each child's funds are available to that child, under staff supervision, for personal use.

(d) The facility shall provide each child with adequate and nutritious food.

(e) The facility shall ensure that each child has sufficient sleep for their age and physical condition.

(f) The facility shall instruct each child in good grooming and personal hygiene habits.

(g) The facility shall ensure that each child is provided with their own clothing that is clean, well-fitting, seasonal, and appropriate to age and gender, unless otherwise directed by a physician.

(h) The facility shall ensure that each child in its care is provided with opportunities for regular recreational activities and exercise.

(i) The facility shall provide activities and equipment that are age-appropriate to the children in its care.

(j) The facility shall monitor and time-limit the use of:

- (1) Television;
- (2) Videos;
- (3) Computer games; and
- (4) Other screen time activities.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1011. Grounds.**

(a) The grounds of the facility shall be kept clean and free of safety hazards.

(b) The facility shall provide sufficient outdoor recreation space for age-appropriate physical activities.

(c) Swimming pools shall be inspected and approved annually by the Department of Health.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1012. Buildings.**

(a) No facility shall be located in:

- (1) A shopping center;
- (2) A strip mall; or
- (3) Any other buildings that are used for commercial activity.

(b) Unused or vacant portions of a facility shall not be rented, leased, loaned, or

otherwise occupied by any commercial or other business entity, or private individuals, not associated with the facility or its management.

(c) All buildings used by children or staff shall be inspected and approved annually for fire safety by fire department officials.

(d) All buildings used by children or staff shall be inspected and approved annually for health and sanitation as required by the Department of Health.

(e) All buildings shall comply with local zoning ordinances and land use requirements where those exist.

(f) All buildings and furnishings shall be:

- (1) Safe;
- (2) Clean; and
- (3) In good repair.

(g) Licensing shall be notified of any changes to buildings that:

- (1) Affect usage, size, or capacity; or
- (2) Are structural changes.

(h) Building usage shall be approved by licensing prior to resident occupancy, and all required inspections, permits, and authorizations shall be provided.

(i) Any modification to buildings used by children or an increase in capacity shall require inspection and approval by the fire department and Department of Health, if applicable.

(j) All parts of buildings used as living, sleeping, or bath areas shall have a heating, ventilating, and air conditioning source that keeps the temperature to a:

- (1) Minimum of sixty-five degrees (65°); and
- (2) Maximum of eighty-five degrees (85°).

(k)(1) The facility shall provide a living area that has at least thirty-five square feet (35 sq. ft.) of floor space per child.

(2) The dining area and indoor recreation area may be included in this space.

(l) The facility shall provide a dining room.

(m) The facility shall have a kitchen.

(n) Seclusion rooms shall meet the following criteria:

- (1) At least thirty-five square feet (35 sq. ft.) of floor space;
- (2) Sufficient lighting with a shatterproof and recessed light fixture that is beyond the reach of the child;
- (3) A door that is able to be opened from the outside, at all times, without use of a key or a removable locking device;
- (4) A door with a shatterproof observation window; and
- (5) Located reasonably near to the staff work area.

(o) Areas used by children shall be designed, constructed, and furnished to reduce risk of suicide and assault, including without limitation:

- (1) Light fixtures that are recessed or abut to the ceiling;
- (2) No wooden or wire hangers;
- (3) Nonbreakable windows and mirrors;
- (4) No loose wires, cords, chains, or ropes;
- (5) Sturdy, well-constructed furniture that cannot be broken for use as a weapon or means of self-inflicted injuries; and
- (6) Children's personal items that contain cords, pull-ties, strings, or other parts that could be used to inflict self-injury shall not be left in the child's room unless the dangerous component has been removed.

(p)(1) Manufactured homes used as residential facilities shall be tied down and underpinned as required by the Arkansas Manufactured Home Commission.

(2) The home shall obtain an inspection and approval from the commission prior to being licensed.

**Authority.** Arkansas Code § 9-28-403.

### **9 CAR § 31-1013. Bathrooms.**

- (a) The facility shall provide bathrooms for the children.
- (b) There shall be a separate toilet, bathtub or shower, and sink for every six (6) children.
- (c) There shall be an adequate supply of hot and cold running water.

- (d) The bathroom shall be clean and sanitary.
- (e) There shall be separate bath and toilet facilities for males and females.
- (f) There shall be an adequate supply of:
  - (1) Soap;
  - (2) Towels; and
  - (3) Tissue.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1014. Sleeping arrangements.**

- (a) The facility shall provide bedrooms for the children.
- (b) There shall be no more than four (4) children per bedroom.
- (c) There shall be at least fifty square feet (50 sq. ft.) of floor space per child in each bedroom.
- (d) No child shall share a bedroom with a child of the opposite gender.
- (e) Each child shall have a separate bed with a mattress, sheets, pillow, pillowcase, and adequate cover, all in good condition.
- (f) No child under six (6) years of age shall occupy a top bunk.
- (g) Bedding shall be changed at least weekly, more often if needed.
- (h) Each child shall have an area to store personal belongings.
- (i) Room arrangements shall be based on characteristics of each resident in order to ensure the safety of each child.
- (j) Beds shall be positioned to ensure that all children can easily exit the room in case of an emergency.
- (k) Beds shall be positioned to minimize the opportunity for physical contact between children.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1015. Safety.**

(a) The facility shall have an operable telephone or comparable communication system.

(b)(1) The facility shall have a continuous supply of clean drinking water.

(2) If the water source is not a municipal system, the source shall be approved by the Department of Health annually.

(c) A private sewage and septic system shall be approved initially and upon any increase in capacity by the department.

(d) There shall be operational smoke detectors:

(1) Near the cooking area and heating units; and

(2) Within ten feet (10') of each bedroom.

(e)(1) An operational chemical fire extinguisher or other fire suppression system approved by local fire inspection officials shall be in the cooking area of each building.

(2) Approval of the fire suppression system shall be documented.

(f) There shall be an emergency evacuation plan diagramed and posted in each building used by children.

(g) Fire drills shall be practiced with children each month.

(h) Severe weather drills shall be practiced with children quarterly.

(i) A record of drills shall be maintained, showing the:

(1) Date and time of day of the drill;

(2) Number of participants; and

(3) Length of time required to reach safety.

(j) Each child shall be instructed in emergency procedures at admission.

(k) The facility shall have proof of current rabies vaccinations for all household pets as required by Arkansas law.

(l) No child shall be allowed to operate dangerous machinery or equipment, including firearms, without proper adult supervision and following manufacturers' guidelines for:

(1) Age;

(2) Safety precautions; and

(3) Safety gear.

(m) The agency shall have policies and procedures for carrying, storage, and use of all firearms located at the facility.

(n) All firearms shall be:

- (1) Maintained in a secure, locked location; or
- (2) Secured by a trigger lock.

(o) All ammunition shall be secured and locked separately from firearms unless they are stored in a safe, for example, a handgun safe or a long gun safe.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1016. Transportation.**

(a) The facility shall have agency-procured transportation that is available at all times.

(b) The facility vehicle or vehicles shall not be used for personal use unless other facility transportation is not available.

(c) Any vehicle used to transport children shall be:

- (1) In safe working condition; and
- (2) Maintained in compliance with motor vehicle laws.

(d) Any vehicle used to transport children shall be insured.

(e) Children shall be transported only by an authorized person possessing a valid driver's license.

(f) Children shall be transported according to Arkansas law, including without limitation:

- (1) Use of safety belts;
- (2) Use of child safety seats; and
- (3) Smoking restrictions.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1017. Discharge.**

(a) The discharge shall be planned by agency staff that includes custodian and child involvement and participation.

(b) The agency may discharge a child on an emergency basis if failure to do so could result in:

- (1) Harm to the child;
- (2) Harm to other persons; or
- (3) Significant property damage.

(c) A child shall be discharged to the custody of the child's parent or a person with authorization from the parent or guardian, or a person authorized by court order to assume custody of the child.

(d) The agency shall:

- (1) Complete a discharge statement on each child that includes a:
  - (A) Discharge date; and
  - (B) Reason for discharge; and
- (2) Provide a copy of it to the child's custodian.

(e) Documentation of the discharge shall be maintained in the child's record.

**Authority.** Arkansas Code § 9-28-403.

## **Subpart 11. Sexual Rehabilitative Program**

### **9 CAR § 31-1101. Generally.**

In addition to all standards in 9 CAR § 31-201 et seq., the following standards shall be met.

**Authority.** Arkansas Code § 9-28-403.

### **9 CAR § 31-1102. Licensing approval and monitoring.**

(a)(1) At the discretion of the Child Welfare Agency Licensing Unit, a multidisciplinary team may be asked to assist the licensing specialist in the initial study

or during an investigation of a licensing complaint.

(2) This team may include a:

(A) Licensed mental health professional, as recognized by Arkansas Medicaid; or

(B) Person with professional expertise in the appropriate field.

(b) At the discretion of the Child Welfare Agency Licensing Unit, a multidisciplinary team may be asked to assist the licensing specialist during inspections for advisory purposes.

(c) A treatment program that offers a specific and specialized therapeutic program for children with sexually maladaptive behaviors in a residential psychiatric treatment facility shall also comply with all standards in 9 CAR § 31-1001 et seq.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1103. Admission.**

(a) The agency shall have written policies regarding description of the target population and admission, exclusion, and discharge criteria.

(b) The facility shall not admit any child for whom the facility cannot provide adequate care.

(c) In order to be admitted to the program, one (1) of the following shall be met:

(1) The child has committed a sexual offense that has been found true or exempt by an official investigation conducted by the Department of Human Services or the Division of Arkansas State Police;

(2) The child has committed an offense involving the use of:

(A) Power;

(B) Control;

(C) Threat;

(D) Coercion; or

(E) Intimidation;

(3) The child has committed an offense in which there was at least a three-

year age difference between the offender and the victim; or

(4) The child has a documented pattern of deviant sexualized behavior, sexual misconduct, or sexually maladaptive behaviors as indicated by the psychosexual assessment.

(d) Children admitted to the program shall have the cognitive ability to benefit from the treatment program.

(e) Each child shall have a:

(1) Medical exam no more than one (1) year before admission; or

(2) Documented appointment date for an exam within one (1) week after admission.

(f) Each child shall have:

(1) Proof of current immunizations;

(2) A letter of exemption in accordance with the Department of Health; or

(3) A scheduled appointment within one (1) week after admission.

(g) The facility shall obtain written verification of the placing agent's authority to place the child at the time of admission.

(h) The facility shall obtain written authority for medical care for the child from the placing agent at the time of admission.

(i) The agency shall comply with the Interstate Compact on the Placement of Children, Arkansas Code § 9-29-201 et seq., when admitting children from outside Arkansas, if applicable.

(j) The facility shall establish that all persons referred for admission are under eighteen (18) years of age at the time of admission.

(k)(1) Residents may remain in the program after reaching eighteen (18) years of age, with the reason for continued placement documented.

(2) The resident shall be discharged no later than their twenty-first birthday.

(l) The facility shall not admit a child under five (5) years of age.

(m) At the time of admission, the following information shall be documented in the child's record:

(1) Name, signature, and role or relationship of the person who relinquished

the child into care;

- (2) A brief description of the circumstances that require admission;
- (3) The date and time of the admission;
- (4) A brief description of the child's history, if known, including behavioral

history;

- (5) Any known medical history and known current health conditions;
- (6) All medications currently prescribed for the child, if known and available;

and

- (7) The child's current behavior or known emotional condition.

(n)(1) The agency shall obtain copies of legal documents within thirty (30) days of admission.

- (2) The legal documents shall include without limitation:

- (A) Birth certificates;
- (B) Social Security cards; and
- (C) Court orders.

(o) Facilities that have an adult program shall provide sleeping and living arrangements to ensure separation of adults from children.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1104. Assessment and treatment planning.**

(a)(1) A plan of safe care shall be developed for all children with physical limitations, medical conditions, or behaviors that are indicative of harm to self or others, including without limitation:

- (A) Arson;
- (B) Physical aggression;
- (C) Sexual aggression;
- (D) Suicidal behaviors; or
- (E) Other self-harming tendencies.

- (2) This plan shall:

- (A) Identify the behavior or problem; and
- (B) Specify the safeguards that are to be implemented.
- (3) The agency shall:
  - (A) Document that the childcare staff are informed of the provisions of the plan; and
  - (B) Place a copy of the plan into the child's record.
- (b)(1) The agency shall have a written policy describing the risk levels it will accept in children with sexually maladaptive behaviors who are being considered for admission.
  - (2) The written policy shall also describe the therapeutic interventions it will utilize for each risk level.
- (c) The agency shall assign a caseworker to each child who is responsible for doing:
  - (1) Assessments;
  - (2) Treatment planning; and
  - (3) Casework services.
- (d) Intake information shall be completed on each child in care within ten (10) working days after admission.
- (e) The intake shall include:
  - (1) Demographic information on the child and parent or parents, including:
    - (A) Name;
    - (B) Address;
    - (C) Birth date;
    - (D) Gender;
    - (E) Race; and
    - (F) Religious preference;
  - (2) A factual description of the circumstances requiring placement;
  - (3) A brief social history of the family;
  - (4) The child's current legal status or custody;
  - (5) Any history of previous placements outside the family;
  - (6) Description of the offense or sexually maladaptive behavior, including

police reports and victim statements, if available;

(7) Psychosexual assessment, if available; and

(8) Discharge summary from previous sexual rehabilitative-specific treatment, if applicable and available.

(f)(1) A psychosexual evaluation shall be conducted by a licensed mental health professional, as recognized by Arkansas Medicaid, who:

(A) Is a member of the Association for the Treatment & Prevention of Sexual Abuse; or

(B) Has forty (40) hours of sexual rehabilitative treatment training.

(2) The evaluation shall be completed within:

(A) The past twelve (12) months; or

(B) Seven (7) days following admission of the child.

(g)(1) Each child shall be evaluated for learning disabilities and language disorders within the past eighteen (18) months.

(2) If a child is admitted without an evaluation, the evaluation shall be completed within thirty (30) days of admission.

(h) An assessment of services needed to ensure the health and welfare of the child, including medical history and psychological history, shall be completed for each child and included in the treatment plan.

(i) The agency shall develop a treatment plan for each child that includes tasks appropriate to the needs of the child as identified in the:

(1) Intake;

(2) Psychosexual assessment; and

(3) If applicable, the psychological evaluation.

(j) The treatment plan shall be developed within thirty (30) days after placement.

(k) The child's treatment plan shall contain, at the minimum:

(1) A diagnosis related to their sexually maladaptive behavior;

(2) Specific needs of the child;

(3) A plan for meeting the child's needs;

(4) Special treatment issues, for example, psychotropic medications, sexual

misconduct, and neurological disorders, shall be identified with a statement of how the special needs shall be met;

(5) A plan to ensure that the child's educational needs are met according to applicable state law; and

(6) Date of next review of the treatment plan.

(l) If treatment services are contracted, there shall be evidence of participation by the contracted therapist in treatment planning reviews and individualized program implementation.

(m) The child's treatment plan shall be:

(1) Reviewed quarterly; and

(2) Updated to reflect the child's progress.

(n) A copy of the treatment plan shall be made available to the parent or parents, guardian or guardians, court, or other agencies that are involved in delivering treatment plan services.

(o) An agency caseworker shall visit the child monthly to monitor the progress of the treatment plan.

**Authority.** Arkansas Code § 9-28-403.

### **9 CAR § 31-1105. Children's records.**

(a) The agency shall keep a confidential case record for each child that includes the following:

(1) Demographic information;

(2) Plan of safe care, if applicable;

(3) A complete intake;

(4) Consents, including consent for medical care and authority to place the child;

(5) Interstate Compact on the Placement of Children, Arkansas Code § 9-29-201 et seq., information, if applicable;

(6) Treatment plans and treatment plan reviews;

(7) Copies of legal documents, for example, birth certificate, Social Security card, court orders, or documentation of its attempts to obtain the documents;

(8) Physical exams and immunization records or documentation of its attempts to obtain the documents;

(9) Psychological reports, if applicable;

(10) Educational reports, if applicable;

(11) Disciplinary and incident reports, if applicable;

(12) Documentation of casework services and child contact; and

(13) Discharge statement.

(b) Records for each child shall be kept for five (5) years from the date of discharge, unless otherwise specified by Arkansas law.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1106. Behavior management.**

(a) The agency shall have a written discipline policy that is consistently followed.

(b) Discipline shall be directed toward teaching the child acceptable behavior and self-control.

(c) Discipline shall be appropriate to the child's:

(1) Age;

(2) Development; and

(3) History.

(d) The following disciplinary actions shall not be used:

(1) Denial of:

(A) Meals;

(B) Sleep;

(C) Shelter;

(D) Essential clothing; or

(E) Treatment plan activities;

(2)(A) Denial of parental visits or regular phone and mail contact with family.

- (B) Nondisciplinary treatment planning issues are accepted;
- (3) Lewd or obscene language;
- (4) Derogatory comments about the child or the child's:
  - (A) Family;
  - (B) Race; or
  - (C) Gender;
- (5) Restriction to a room for more than a short period of time without periodic observation;
- (6) Restriction to a dark room or area;
- (7) Locked isolation, psychiatric facilities excepted;
- (8) Physical injury or threat of bodily harm;
- (9) Humiliating or degrading action;
- (10) Extremely strenuous work or exercise; or
- (11) Mechanical or chemical restraints, psychiatric facilities excepted.

(e) Physical restraint:

- (A) Shall be initiated only by trained staff, only to prevent injury to:
  - (i) The child;
  - (ii) Other people; or
  - (iii) Property; and
- (B) Shall not be initiated solely as a form of discipline.

(f)(1) Physical restraints shall be performed using minimal force and time necessary.

(2) "Physical restraint" means the application of physical force without the use of any device for the purposes of restraining the free movement of a resident's body.

(3) Briefly holding a child, without undue force, in order to calm or comfort them or holding a hand to safely escort a child from an initial area to another area is not considered a physical restraint.

(g) Documentation of all restraints shall be maintained and include the:

- (1) Child's name;
- (2) Date;

- (3) Time;
  - (4) Reason;
  - (5) Staff involved; and
  - (6) Measures taken prior to restraint.
- (h) A child shall not be allowed to administer discipline.
- (i) Searches of a child or a child's personal property shall be for reasons limited to:
- (1) Safety and security of children and staff;
  - (2) Cases of suspected theft; or
  - (3) Suspicion of possession of items that are not permitted by agency policy.
- (j) Any searches requiring removal of clothing shall be:
- (1) Done in privacy; and
  - (2) Witnessed by two (2) staff of the same gender as the child.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1107. Personnel.**

The agency shall have:

- (1) A clinical director who has:
  - (A) At least a master's degree in a human service field;
  - (B) A current license in Arkansas as a mental health professional, as recognized by Arkansas Medicaid;
  - (C) No fewer than forty (40) hours of sexual rehabilitative treatment training; and
  - (D)(i) A minimum of two (2) years of sexual rehabilitative treatment experience.
  - (ii) Certification as a sexual rehabilitative treatment trainer may be substituted for the required experience; and
- (2) A therapist who is a licensed mental health professional, as recognized by Arkansas Medicaid, and has at least one (1) of the following:
  - (A) At least:

(i) Two (2) years of experience in a sexual rehabilitative treatment program; and

(ii) Forty (40) hours of sexual rehabilitative treatment training;

(B) At least three (3) years of experience in sexual rehabilitative-specific treatment; or

(C) A current membership in or is actively working toward fulfilling the requirements for membership in the Association for the Treatment & Prevention of Sexual Abuse.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1108. Ratio and supervision.**

(a) The facility shall not exceed its total licensed capacity.

(b) Childcare staff shall be responsible for providing the level of supervision, care, and treatment that is necessary to ensure the safety and well-being of each child at the facility, taking into account the child's age, individual differences and abilities, surrounding circumstances, hazards, and risks.

(c) The agency shall have a written plan providing for appropriate supervision of children during activities away from the facility.

(d) The staff-to-child ratio shall be at least:

(1) One to six (1:6) during waking hours; and

(2) One to eight (1:8) during sleeping hours.

(e) Twenty-four-hour awake supervision is required.

(f) Only staff who directly supervise children shall be counted in this ratio.

(g) The facility shall maintain a daily census report to include the child's name and room or building assignment.

(h)(1) The agency shall have written policies governing the supervision and monitoring of children in the buildings, on the grounds, and in the community, including direct visual or auditory monitoring of moderate or high-risk children, based on 9 CAR § 31-1104(b).

(2) Policy shall include appropriate grouping of children according to chronological age or cognitive development.

(i) If cameras, heat sensors, or motion detectors are used as part of the safety plan, they shall be operational and placed for effective monitoring according to the plan.

(j) The agency shall have a written safety plan to protect children in the program and to ensure public safety.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1109. Health and medical care.**

(a)(1) Each child shall have a medical exam at least annually.

(2) Health exams need not be repeated during the year if a child moves from one (1) facility or agency to another, provided that the results of the exam are available to the receiving facility or agency.

(b) All medications shall be administered to children by staff according to medical instructions.

(c) The administering of all medications, including over-the-counter, shall be logged by the person administering the medication at the time that the medication is given.

(d) The medication log shall include the:

- (1) Child's name;
- (2) Time and date;
- (3) Medication dosage; and
- (4) Initials of the person administering the medication.

(e)(1) All medications, excluding Epipens, inhalers, and glucagon kits, shall be kept securely locked and stored according to pharmaceutical recommendations.

(2) An age-appropriate and developmentally capable child may be provided or have access to nonnarcotic prescriptions with an approved safety plan.

(3) Examples include without limitation:

- (A) Birth control;
- (B) Acne cream; and
- (C) Topical creams.

(f) Keys to medication storage areas shall be kept on the premises and readily accessible by staff at all times.

(g) Currently prescribed medications belonging to children shall be returned to the parent or custodian upon discharge.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1110. Program.**

(a) The facility shall ensure that each child receives education in accordance with applicable state law.

(b) The facility shall:

(1) Teach each child the daily living tasks required as a part of living in a group setting; and

(2) Assign only light chores that are age-appropriate.

(c) The agency shall:

(1) Have a policy regarding each child's money received; and

(2) Ensure that each child's funds are available to that child, under staff supervision, for personal use.

(d) The facility shall not allow a child's outside employment, chores, or extracurricular activities to interfere with the child's time for:

(1) School;

(2) Sleep;

(3) Family visits; or

(4) Treatment plan activities.

(e) The facility shall provide each child with adequate and nutritious food.

(f) The facility shall ensure that each child has sufficient sleep for their age and physical condition.

(g) The facility shall instruct each child in good grooming and personal hygiene habits.

(h) The facility shall ensure that each child is provided with their own clothing that is clean, well-fitting, seasonal, and appropriate to age and gender, unless otherwise directed by a physician.

(i) The facility shall ensure each child in care is provided with opportunities for regular recreational activities and exercise.

(j) The facility shall provide activities and equipment that are age-appropriate to the children in its care.

(k) The facility shall monitor, and time-limit the use of:

- (1) Television;
- (2) Videos;
- (3) Computer games; and
- (4) Other screen time activities.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1111. Grounds.**

(a) The grounds of the facility shall be kept clean and free of safety hazards.

(b) The facility shall provide sufficient outdoor recreation space for age-appropriate physical activities.

(c) Swimming pools shall be inspected and approved annually by the Department of Health.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1112. Buildings.**

(a) A sexual rehabilitative program shall not be located within one thousand feet (1,000') of:

- (1) An elementary school;

- (2) A childcare center; or
- (3) A childcare family home.

(b) No facility shall be located in:

- (1) A shopping center;
- (2) A strip mall; or
- (3) Other types of buildings that are used for commercial activity.

(c) Unused or vacant portions of a facility shall not be rented, leased, loaned, or otherwise occupied by any commercial or other business entity, or private individuals, who are not associated with the facility or its management.

(d) All buildings used by children or staff shall be inspected and approved annually for fire safety by fire department officials.

(e) All buildings used by children or staff shall be inspected and approved annually for health and sanitation as required by the Department of Health.

(f) All buildings shall comply with local zoning ordinances and land use requirements, where those exist.

(g) All buildings and furnishings shall be:

- (1) Safe;
- (2) Clean; and
- (3) In good repair.

(h)(1) There shall be no more than twelve (12) children in a sleeping unit.

(2) A sleeping unit is considered to be a group of bedrooms, psychiatric facilities excepted.

(i)(1) Sleeping units sharing the same building shall be separated, for example, into different:

- (A) Corridors;
- (B) Wings; or
- (C) Floors.

(2) Sleeping units modified or newly constructed after September 1, 2016, shall comply with this standard.

(j) Licensing shall be notified of any changes to buildings that:

- (1) Affect their usage, size, or capacity; or
- (2) Are structural changes.

(k) Building usage shall be approved by licensing prior to resident occupancy, and all required inspections, permits, and authorizations shall be provided.

(l) Any modification to buildings used by children or an increase in capacity shall require inspection and approval by the fire department and Department of Health, if applicable.

(m) All parts of buildings used as living, sleeping, or bath areas shall have a heating, ventilating, and air conditioning source that keeps the temperature within a:

- (1) Minimum of sixty-five degrees (65°); and
- (2) Maximum of eighty-five degrees (85°).

(n)(1) The facility shall provide a living area that has at least thirty-five square feet (35 sq. ft.) of floor space per child.

(2) The dining area and indoor recreation area may be included in this space.

(o) The facility shall provide a dining room.

(p) The facility shall have a kitchen.

(q)(1) Manufactured homes used as residential facilities shall be tied down and underpinned as required by the Arkansas Manufactured Home Commission.

(2) The home shall obtain an inspection and approval from the commission prior to being licensed.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1113. Bathrooms.**

(a) The facility shall provide bathrooms for the children.

(b) There shall be a separate toilet, bathtub or shower, and sink for every six (6) children.

(c) There shall be an adequate supply of hot and cold running water.

(d) The bathroom shall be clean and sanitary.

(e) There shall be separate bath and toilet facilities for males and females.

(f) There shall be an adequate supply of:

- (1) Soap;
- (2) Towels; and
- (3) Tissue.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1114. Sleeping arrangements.**

(a) The facility shall provide bedrooms for the children.

(b)(1) Children shall be placed in individual bedrooms unless each child's treatment plan specifically approves the sharing of a bedroom.

(2) If children are approved to share a bedroom, there shall be three (3) or four (4) children in the room so as to limit the ability to keep secret any improper physical contact.

(3) When three (3) or four (4) children share a bedroom, the agency shall have a clearly defined supervision plan to ensure the safety of each child.

(c) There shall be no more than four (4) children per bedroom.

(d) There shall be at least fifty square feet (50 sq. ft.) of floor space per child in each bedroom.

(e) Males and females shall not share a bedroom.

(f) Each child shall have a separate bed with a mattress, sheets, pillow, pillowcase, and adequate cover, all in good condition.

(g) No child under six (6) years of age shall occupy a top bunk.

(h) Bedding shall be changed at least weekly, more often if needed.

(i) Each child shall have an area to store personal belongings.

(j) Room arrangements shall be based on characteristics of each resident to ensure the safety of each child.

(k) Beds shall be positioned to minimize the opportunity for physical contact between children.

(l) Beds shall be positioned to ensure that all children can easily exit the room in

case of emergency.

(m) Males and females shall not share an unsupervised sleeping unit.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1115. Safety.**

(a) The facility shall have an operable telephone or comparable communication system.

(b)(1) The facility shall have a continuous supply of clean drinking water.

(2) If the water source is not a municipal system, the source shall be approved annually by the Department of Health.

(c) A private sewage and septic system shall be approved initially and upon any increase in capacity by the department.

(d) There shall be operational smoke detectors:

(1) Near the cooking area and heating units; and

(2) Within ten feet (10') of each bedroom.

(e)(1) An operational chemical fire extinguisher or other fire suppression system that is approved by local fire inspection officials shall be in the cooking area of each building.

(2) Approval of the fire suppression system shall be documented.

(f) There shall be an emergency evacuation plan diagramed and posted in each building that is being used by children.

(g) Fire drills shall be practiced with children each month.

(h) Severe weather drills shall be practiced with children quarterly.

(i) A record of drills shall be maintained, showing the:

(1) Date and time of day of the drill;

(2) Number of participants; and

(3) Length of time required to reach safety.

(j) Each child shall be instructed in emergency procedures at admission.

(k) The facility shall have proof of current rabies vaccinations for all household pets

as required by Arkansas law.

(l) No child shall be allowed to operate dangerous machinery or equipment, including firearms, without proper adult supervision and following manufacturers' guidelines for:

- (1) Age;
- (2) Safety precautions; and
- (3) Safety gear.

(m) The agency shall have policies and procedures for carrying, storage, and use of all firearms located at the facility.

(n) All firearms shall be:

- (1) Maintained in a secure, locked location; or
- (2) Secured by a trigger lock.

(o) All ammunition shall be secured and locked separately from firearms unless they are stored in a safe, for example, a handgun safe or a long gun safe.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1116. Transportation.**

(a) The facility shall have agency-procured transportation that is available at all times.

(b) The facility vehicle or vehicles shall not be used for personal use unless other facility transportation is not available.

(c) Any vehicle used to transport children shall be:

- (1) In safe working condition; and
- (2) Maintained in compliance with motor vehicle laws.

(d) Any vehicle used to transport children shall be insured.

(e) Children shall be transported only by an authorized person who possesses a valid driver's license.

(f) Children shall be transported according to Arkansas law, including without limitation:

- (1) Use of safety belts;
- (2) Use of child safety seats; and
- (3) Smoking restrictions.

**Authority.** Arkansas Code § 9-28-403.

**9 CAR § 31-1117. Discharge.**

- (a) The discharge shall be planned by agency staff.
- (b) The agency may discharge a child on an emergency basis if failure to do so could result in:
  - (1) Harm to the child;
  - (2) Harm to other persons; or
  - (3) Significant property damage.
- (c) A child shall be discharged to the custody of the child's parent or a person with authorization from the parent, guardian, or a person authorized by court order to assume custody of the child.
- (d) The agency shall:
  - (1) Complete a discharge statement on each child that includes a:
    - (A) Discharge date; and
    - (B) Reason for discharge; and
  - (2) Provide a copy of it to the child's custodian.
- (e) Documentation of the discharge shall be maintained in the child's record.

**Authority.** Arkansas Code § 9-28-403.

**Appendix A. Prohibited Offenses**

**Link:**

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/283/9CARpt.31AppendixA.pdf>