

Critical Regulatory Requirements for the Residential Regulations

Group Homes 6VAC35-41

6VAC35-41-90 (A). Serious incident reports.

A. The following events shall be reported within 24 hours to: (i) the placing agency, (ii) the parent or legal guardian, or both, as applicable and appropriate, and (iii) the director or designee:

1. Any serious incident, accident, illness, or injury to the resident;
2. Any overnight absence from the facility without permission;
3. Any runaway;
4. Any fire, hostage or emergency situation, or natural disaster that jeopardizes the health, safety, and welfare of the residents; and
5. Any suspected case of child abuse or neglect at the facility, on a facility event or excursion, or involving facility staff as provided in 6VAC35-41-100 (suspected child abuse or neglect).

The 24 - hour reporting requirement may be extended when the emergency situation or natural disaster has made such communication impossible (e.g., modes of communication are not functioning). In such cases, notice shall be provided as soon as feasible thereafter.

6VAC35-41-180 (A). Employee and volunteer background checks.

A. Except as provided in subsection, all persons who (i) accept a position of employment at, (ii) volunteer on a regular basis and will be alone with a resident in the performance of their duties, or (iii) provide contractual services directly to a resident on a regular basis and will be alone with a resident in the performance of their duties in a juvenile residential facility shall undergo the following background checks , in accordance with § 63.2-1726 of the Code of Virginia , to ascertain whether there are criminal acts or other circumstances that would be detrimental to the safety of residents in the facility:...

6VAC35-41-260. Physical or mental health of personnel.

When an individual poses a direct threat to the health and safety of a resident, others at the facility, or the public or is unable to perform essential job-related functions, that individual shall be removed immediately from all duties involved in the direct care or direct supervision of residents. The facility may require a medical or mental health evaluation to determine the individual's fitness for duty prior to returning to duties involving the direct care or direct supervision of residents. The results of any medical information or documentation of any disability related inquiries shall be maintained separately from the employee's personnel records maintained in accordance with 6VAC35-41-310 (personnel records). For the purpose of this section a direct threat means a significant risk of substantial harm.

6VAC35-41-350 (B). Buildings and inspections.

B. A current copy of the facility's annual inspection by fire prevention authorities indicating that all buildings and equipment are maintained in accordance with the Virginia Statewide Fire Prevention Code (13VAC5-51) shall be maintained. If the fire prevention authorities have failed to timely inspect the facility's buildings and equipment, documentation of the facility's request to schedule the annual inspection as well as documentation of any necessary follow-up with fire prevention authorities shall be maintained.

6VAC35-41-430 (A). Disposal of garbage and management of hazardous materials.

A. Provision shall be made for the collection and legal disposal of all garbage and waste materials.

6VAC35-41-430 (B). Disposal of garbage and management of hazardous materials.

B. All flammable, toxic, medical, and caustic materials within the facility shall be stored, used, and disposed of in appropriate receptacles and in accordance with federal, state, and local requirements.

6VAC35-41-490 (A). Emergency and evacuation procedures.

A. The provider shall develop a written emergency preparedness and response plan for each facility. The plan shall address:

1. Documentation of contact with the local emergency coordinator to determine (i) local disaster risks, (ii) communitywide plans to address different disasters and emergency situations, and (iii) assistance, if any, that the local emergency management office will provide to the facility in an emergency;
2. Analysis of the provider's capabilities and potential hazards, including natural disasters, severe weather, fire, flooding, work place violence or terrorism, missing persons, severe injuries, or other emergencies that would disrupt the normal course of service delivery;
3. Written emergency management procedures outlining specific responsibilities for provision of administrative direction and management of response activities; coordination of logistics during the emergency; communications; life safety of employees, contractors, interns, volunteers, visitors and residents; property protection; community outreach; and recovery and restoration;
4. Written emergency response procedures for assessing the situation; protecting residents, employees, contractors, interns, volunteers, visitors, equipment and vital records; and restoring services. Emergency procedures shall address:
 - a. Communicating with employees, contractors, and community responders;
 - b. Warning and notification of residents;
 - c. Providing emergency access to secure areas and opening locked doors;
 - d. Conducting evacuations to emergency shelters or alternative sites and accounting for all residents;
 - e. Relocating residents, if necessary;
 - f. Notifying parents and legal guardians, as applicable and appropriate;
 - g. Alerting emergency personnel and sounding alarms;
 - h. Locating and shutting off utilities when necessary; and
 - i. Providing for a planned, personalized means of effective egress for residents who use wheelchairs, crutches, canes, or other mechanical devices for assistance in walking.
5. Supporting documents that would be needed in an emergency, including emergency call lists, building and site maps necessary to shut off utilities, designated escape routes, and list of major resources such as local emergency shelters; and
6. Schedule for testing the implementation of the plan and conducting emergency preparedness drills.

6VAC35-41-490 (B). Emergency and evacuation procedures.

B. The provider shall develop emergency preparedness and response training for all employees to ensure they are prepared to implement the emergency preparedness plan in the event of an emergency. Such training shall include the employees' responsibilities for:

1. Alerting emergency personnel and sounding alarms;
2. Implementing evacuation procedures, including evacuation of residents with special needs (i.e., deaf, blind, non-ambulatory);
3. Using, maintaining, and operating emergency equipment;
4. Accessing emergency information for residents including medical information; and
5. Utilizing community support services.

6VAC35-41-490 (I). Emergency and evacuation procedures.

I. At least one evacuation drill (the simulation of the detention center's emergency procedures) shall be conducted each month in each building occupied by residents. During any three consecutive calendar months, at least one evacuation drill shall be conducted during each shift.

6VAC35-41-560. Prohibited actions

The following actions are prohibited:

1. Discrimination in violation of the Constitution of the United States, the Constitution of the Commonwealth of Virginia, and state and federal statutes and regulations.
2. Deprivation of drinking water or food necessary to meet a resident's daily nutritional needs, except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;
3. Denial of contacts and visits with the resident's attorney, a probation officer, the department, regulatory authority, a supervising agency representative, or representatives of other agencies or groups as required by applicable statutes or regulations;
4. Bans on contacts and visits with family or legal guardians, except as permitted by other applicable state regulations or by order of a court of competent jurisdiction;
5. Any action that is humiliating, degrading, or abusive including, but not limited to, physical abuse, sexual abuse, and sexual harassment;
6. Corporal punishment, which is administered through the intentional inflicting of pain or discomfort to the body through actions such as, but not limited to (i) striking or hitting with any part of the body or with an implement; (ii) pinching, pulling, or shaking; or (iii) any similar action that normally inflicts pain or discomfort;
7. Subjection to unsanitary living conditions;
8. Denial of opportunities for bathing or access to toilet facilities, except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;
9. Denial of health care;
10. Deprivation of appropriate services and treatment;
11. Application of aversive stimuli, except as permitted pursuant to other applicable state regulations. Aversive stimuli mean any physical forces (e.g., sound, electricity, heat, cold, light, water, or noise) or substances (e.g., hot pepper, pepper sauce, or pepper spray) measurable in duration and intensity that when applied to a resident are noxious or painful to the individual;
12. Administration of laxatives, enemas, or emetics, except as ordered by a licensed physician or poison control center for a legitimate medical purpose and documented in the resident's record;
13. Deprivation of opportunities for sleep or rest, except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;
14. Placement of a resident alone in a locked room or a secured area where the resident is prevented from leaving;
15. Use of mechanical restraints (e.g., handcuffs, waist chains, leg irons, disposable plastic cuffs, leather restraints, or a restraint chair);
16. Use of pharmacological restraints; and
17. Other constitutionally prohibited actions.

6VAC35-41-650 (A). Nutrition.

A. Each resident, except as provided in subsection B of this section, shall be provided a daily diet that (i) consists of at least three nutritionally balanced meals and an evening snack, (ii) includes an adequate variety and quantity of food for the age of the resident, and (iii) meets any applicable federal nutritional requirements.

6VAC35-41-650 (B). Nutrition.

B. Special diets or alternative dietary schedules, as applicable, shall be provided in the following circumstances: (i) when prescribed by a physician or (ii) when necessary to observe the established

religious dietary practices of the resident. In such circumstances, the meals shall meet the minimum nutritional requirements of the U.S. Dietary Guidelines.

6VAC35-41-920 ((E) . Staff supervision of residents.

E. Whenever residents are being supervised by staff there shall be at least one staff person present with a current basic certification in standard first aid and a current certificate in cardiopulmonary resuscitation issued by a recognized authority

6VAC35-41-1170 (A). Health care procedures.

A. The provider shall have and implement written procedures for promptly:

1. Arranging for the provision of medical and dental services for health problems identified at admission;
2. Arranging for the provision of routine ongoing and follow-up medical and dental services after admission;
3. Arranging for emergency medical and mental health care services, as appropriate and applicable, for each resident as provided by statute or by the agreement with the resident's legal guardian;
4. Arranging for emergency medical and mental health care services, as appropriate and applicable, for any resident experiencing or showing signs of suicidal or homicidal thoughts, symptoms of mood or thought disorders, or other mental health problems; and
5. Ensuring that the required information in subsection B of this section is accessible and up to date.

6VAC35-41-1200. Health screening at admission.

The facility shall require that:

1. To prevent newly arrived residents who pose a health or safety threat to themselves or others from being admitted to the general population, all residents shall immediately upon admission undergo a preliminary health screening consisting of a structured interview and observation by health care personnel or health-trained staff. As necessary to maintain confidentiality, all or a portion of the interview shall be conducted with the resident without the presence of the parent or guardian.
2. Residents admitted to the facility who pose a health or safety threat to themselves or others shall not be admitted to the facility's general population but provision shall be made for them to receive comparable services.
3. Immediate health care is provided to residents who need it.

6VAC35-41-1210 (A). Tuberculosis screening.

A. Within seven days of placement each resident shall have had a screening assessment for tuberculosis. The screening assessment can be no older than 30 days.

6VAC35-41-1210 (B). Tuberculosis screening.

B. A screening assessment for tuberculosis shall be completed annually on each resident.

6VAC35-41-1220 (B). Medical examinations and treatment.

B. Each resident shall have an annual physical examination by or under the direction of a licensed physician and an annual dental examination by a licensed dentist.

6VAC35-41-1230 (A). Infectious or communicable diseases.

A. A resident with a communicable disease shall not be admitted unless a licensed physician certifies that:

1. The facility is capable of providing care to the resident without jeopardizing residents and staff; and

2. The facility is aware of the required treatment for the resident and the procedures to protect residents and staff.

The requirements of this subsection shall not apply to shelter care facilities.

6VAC35-41-1240. Suicide prevention.

Written procedure shall provide (i) for a suicide prevention and intervention program, developed in consultation with a qualified medical or mental health professional, and (ii) for all direct care staff to be trained in the implementation of the program.

6VAC35-41-1250 (A). Residents' health records.

A. Each resident's health record shall include written documentation of (i) the initial physical examination, (ii) an annual physical examination by or under the direction of a licensed physician including any recommendation for follow-up care, and (iii) documentation of the provision of follow-up medical care recommended by the physician or as indicated by the needs of the resident.

6VAC35-41-1280 (A). Medication.

A. All medication shall be properly labeled consistent with the requirements of the Virginia Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia). Medication prescribed for individual use shall be so labeled.

6VAC35-41-1280 (B). Medication.

B. All medication shall be securely locked, unless otherwise ordered by a physician on an individual basis for keep-on-person or equivalent use.

6VAC35-41-1280 (C). Medication.

C. All staff responsible for medication administration who do not hold a license issued by the Virginia Department of Health Professions authorizing the administration of medications shall have successfully completed a medication training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medications before they can administer medication. All staff who administers medication shall complete an annual refresher medication training.

6VAC35-41-1280 (E). Medication.

E. A program of medication, including procedures regarding the use of over-the-counter medication pursuant to written or verbal orders signed by personnel authorized by law to give such orders, shall be initiated for a resident only when prescribed in writing by a person authorized by law to prescribe medication.

6VAC35-41-1280 (H). Medication.

H. In the event of a medication incident or an adverse drug reaction, first aid shall be administered if indicated. Staff shall promptly contact a poison control center, pharmacist, nurse, or physician and shall take actions as directed. If the situation is not addressed in standing orders, the attending physician shall be notified as soon as possible and the actions taken by staff shall be documented. A medical incident shall mean an error made in administering a medication to a resident including the following: (i) a resident is given incorrect medication; (ii) medication is administered to an incorrect resident; (iii) an incorrect dosage is administered; (iv) medication is administered at a wrong time or not at all; and (v) the medication is administered through an improper method. A medication error does not include a resident's refusal of appropriately offered medication.

6VAC35-41-1280 (J). Medication.

J. Medication refusals shall be documented including action taken by staff. The facility shall follow procedures for managing such refusals that shall address:

1. Manner by which medication refusals are documented, and
2. Physician follow-up, as appropriate.

6VAC35-41-1280 (M). Medication.

M. Syringes and other medical implements used for injecting or cutting skin shall be locked and inventoried in accordance with facility procedures.

6VAC35-41-1320 (A). Physical restraint.

A. Physical restraint shall be used as a last resort only after less restrictive interventions have failed or to control residents whose behavior poses a risk to the safety of the resident, others, or the public.

1. Staff shall use the least force deemed reasonable to be necessary to eliminate the risk or to maintain security and order and shall never use physical restraint as punishment or with the intent to inflict injury.
2. Staff may physically restrain a resident only after less restrictive behavior interventions have failed or when failure to restrain would result in harm to the resident or others.
3. Physical restraint shall be implemented, monitored, and discontinued only by staff that has been trained in the proper and safe use of restraint.
4. Physical restraint shall mean the application of behavior intervention techniques involving a physical intervention to prevent an individual from moving all or part of that individual's body.

6VAC35-41-1320 (B). Physical restraint.

B. Written procedures governing use of physical restraint shall include:

1. The staff position who will write the report and timeframe;
2. The staff position who will review the report and timeframe; and
3. Methods to be followed should physical restraint, less intrusive interventions, or measures permitted by other applicable state regulations prove unsuccessful in calming and moderating the resident's behavior.

6VAC35-41-1320 (C). Physical restraint.

C. All physical restraints shall be reviewed and evaluated to plan for continued staff development for performance improvement.

6VAC35-41-1330. Chemical agents.

Staff are prohibited from using pepper spray and other chemical agents to manage resident behavior.