

TITLE 7 HEALTH
CHAPTER 20 MENTAL HEALTH
PART 12 LICENSING REQUIREMENTS FOR CHILD AND ADOLESCENT MENTAL HEALTH
FACILITIES

7.20.12.1 ISSUING AGENCY: Children, Youth and Families Department.
[1/1/99; 7.20.12.1 NMAC - Rn, 7 NMAC 20.12.1, 02/28/05]

7.20.12.2 SCOPE: All residential treatment services that provide children and adolescent mental health services as specified in these regulations.

- A. These regulations apply to the following:
- (1) public or private, profit or nonprofit residential facilities providing services as outlined by these regulations;
 - (2) any facility providing services as outlined by these regulations which by state or federal law or regulation must be licensed by the state of New Mexico.
- B. These regulations do not apply to the following:
- (1) offices and treatment room of licensed private practitioners;
 - (2) agencies providing treatment foster care services which are licensed by the protective services division of the department;
 - (3) room and board facilities in public or private schools accredited or supervised by the New Mexico state department of education and inspected for fire and safety by the New Mexico state fire marshals office;
 - (4) children/adolescent crisis shelters which provide short term emergency 24-hour-a-day, living accommodations to children, which are licensed by the child care bureau of the department;
 - (5) any facility licensed as a community home or a multi-service agency.
- [1/1/99; 7.20.12.2 NMAC - Rn & A, 7 NMAC 20.12.2, 02/28/05]

7.20.12.3 STATUTORY AUTHORITY: Sections 24-1-3, 24-1-5 and 9-2A-7(D) NMSA 1978
[1/1/99; 7.20.12.3 NMAC - Rn & A, 7 NMAC 20.12.3, 02/28/05]

7.20.12.4 DURATION: Permanent.
[1/1/99; 7.20.12.4 NMAC - Rn, 7 NMAC 20.12.4, 02/28/05]

7.20.12.5 EFFECTIVE DATE: January 1, 1999 unless a later date is cited at the end of a section.
[1/1/99; 7.20.12.5 NMAC - Rn & A, 7 NMAC 20.12.5, 02/28/05]

7.20.12.6 OBJECTIVE:

- A. Establish minimum standards for licensing of health facilities that provide residential mental health services in order to promote the health, safety and welfare of children and adolescents in need of such services.
- B. Provide for monitoring of facility compliance with these regulations through surveys to identify any factors that could affect the health, safety, and welfare of the clients or the staff.
- C. Assure that the agency/ facility establishes and follows written policies and procedures which specify how this is met.
- D. To assure that adequate supervision must be provided at all times. Failure to provide a child or adolescent with the care, supervision and services outlined in these regulations is a violation of these regulations which could result in suspension, revocation or denial of licensure.
- [1/1/99; 7.20.12.6 NMAC - Rn & A, 7 NMAC 20.12.6, 02/28/05]

7.20.12.7 DEFINITIONS: For the purpose of these regulations the following apply.

- A. “Abuse” means any act or failure to act, performed intentionally, knowingly or negligently that causes or is likely to cause harm to a client, including:
- (1) physical contact that harms or is likely to harm a client of a facility;
 - (2) inappropriate use of a physical restraint, isolation, or medication that harms or is likely to harm a client;

- (3) inappropriate use of restraint, medication, or isolation as punishment or in conflict with a physician's order;
- (4) medically inappropriate conduct that causes or is likely to cause physical harm to a client;
- (5) medically inappropriate conduct that causes or is likely to cause great psychological harm to a client;
- (6) an unlawful act, a threat, or menacing conduct directed toward a client that results and might reasonably be expected to result in fear or emotional or mental distress to a client;
- (7) abuse or neglect as defined in NMSA 32A-4-2 (1997), or as amended.
- B. "Action plan" means a written document submitted by the provider(s) to the licensing and certification authority (LCA) for approval which states those actions that the facility will be implementing, with specific time frames and responsible parties for each, to correct the deficiencies identified in the previous on-site visit or review of documents.
- C. "Administrator" means the person in charge of the day-to-day operation of a facility. The administrator, director, or operator may be the licensee or an authorized representative of the licensee. The administrator may also be referred to as the director or operator.
- D. "Agency staff personnel" means current and prospective operators, staff, employees or volunteers of the agency.
- E. "Ambulatory" means the ability of the child to walk without assistance.
- F. "Applicant" means the individual who, or organization which, applies for a license.
- G. "Bed" means the total assembly on which a child sleeps, including frame, springs, mattress, mattress cover/pad, sheets, pillow, blankets and bedspread.
- H. "Capacity" means the maximum number of children who can be accommodated in rooms designated specifically for them in a facility pursuant to these regulations.
- I. "Child/adolescent" means (for the purpose of these regulations), a person under the chronological age of 18 years. Those persons who, while a resident or client of a residential treatment services facility licensed pursuant to these regulations, reach the age of 18 for the purposes of these regulations be considered a child until they complete their course of treatment in the facility.
- J. "Cleared staff member" means an individual who has received a state and federal criminal background clearance (meaning a negative criminal record check) as documented by the department clearance letter.
- K. "Client" means any person who receives treatment from a residential agency.
- L. "Corporal punishment" means touching a child's body with the intent of inducing pain and includes, but not limited to, shaking, spanking, hitting, hair pulling, ear pulling or forced exercise and is considered an abusive act.
- M. "Criminal records check" means the process of fingerprinting on state and FBI approved cards and submission of the fingerprint cards for the purpose of obtaining the state and federal conviction records of an individual. The use of the services of an agency contracted by the department of public safety (DPS) who can access the DPS database in order to obtain state criminal background checks for those applicants who have resided in the state of New Mexico for five years or more may be utilized as a means of obtaining state criminal records checks prior to employment. Federal finger printing is still required. The use of an alternate method to obtain state criminal background checks do not replace the federal fingerprinting requirement.
- N. "Cruelty (mental or physical) and indifference to the welfare of children" means a failure to provide a child with the care, supervision, and services to which the child is entitled. Examples of physical and mental cruelty include physical device/chemical restraints, striking, slapping or hitting, withholding food or bathroom privileges as punishment, swearing at or threatening a child, and indifference to the basic needs, including physical and psychosocial, of the child and including any abuse as defined in NMSA 1978 32-A-4-2.
- O. [RESERVED]
- P. "Deficiency" means a violation of or failure to comply with a provision(s) of these regulations.
- Q. "Department" means the New Mexico children, youth and families department.
- R. "Direct physical supervision" as it relates to criminal records checks means in the line of vision and/or live video observation by cleared agency staff member of non-cleared agency staff members who have direct contact with children.
- S. "Direct service staff" means supervisors, therapists, child care workers, coordinators or other employees who work directly with children in their daily living activities in a facility.
- T. "Directed action plan" means an action plan that the LCA writes and specifies that the facility must enforce within a specific time frame noted because of the serious nature of the deficiency.

U. “Discipline” means training that enables a child to develop self control and orderly conduct in relationship to peers and adults.

V. “Emergency sanction” means an immediate measure that is imposed on a facility for a violation(s) of applicable licensing laws and regulations, other than license revocation, suspension, denial of renewal of license or loss of certification, when a health and safety violation warrants prompt action.

W. “Emergency service” means unanticipated admission to a hospital or other psychiatric facility; or the provision of emergency services including, but not limited to, treatment for broken bones, cuts requiring sutures, poisoning, contagious diseases requiring quarantine, burns requiring specialized medical treatment, medication under-dose or overdose requiring treatment; or incidents between residents, or between residents and staff resulting in physical or psychological harm or which could result in physical or psychological harm; or other conditions requiring emergency medical services (EMS) specialized treatment at an urgent care center or an emergency room.

X. “Emergency suspension” means an immediate and temporary canceling of a license pending an appeal hearing and/or correction of deficiencies. During a period of suspension, the medicaid provider agreement is not in effect.

Y. “Employment history” means a written summary for the most recent three-year period of all periods of employment with names, addresses and telephone numbers of the employers and the individuals immediate supervisor; and all periods of nonemployment, stating the reason for leaving employment and explanation of periods of nonemployment, with documented verifying references.

Z. “Exploitation” means the act or process, performed intentionally, knowingly, or recklessly, of using a clients property for another persons profit, advantage or benefit without legal entitlement to do so.

AA. “Facility” means a building(s) in which residential mental health services are provided to the public and which is licensed pursuant to these regulations.

BB. “Governing body” means the governing authority of a facility which has the ultimate responsibility for all planning, direction, control, and management of the activities and functions of a facility licensed pursuant to these regulations.

CC. “Informal resolution conference” means an informal process between the department and facility to resolve any filed or potential appeal arising from the imposition of a sanction(s). The informal conference is an opportunity for the facility to present new evidence or arguments regarding the deficiencies cited by, or corrective action proposed by the department, in order to avoid a hearing. The informal conference does not postpone any deadlines for an appeal unless agreed to by the parties.

DD. “License” means the document issued by the LCA pursuant to these regulations granting the legal right to operate for a specified period of time.

EE. “Licensee” means the person(s) who, or organization which, has ownership, leasehold, or similar interest in the facility and in whose name a license for a facility has been issued and who is legally responsible for compliance with these regulations.

FF. “Licensing and certification authority” (LCA) means the childrens behavioral health services bureau, licensing and certification unit of the department.

GG. “Maintenance” means keeping the building(s) in a repaired and safe condition and the grounds in a safe, sanitary and presentable condition.

HH. “Mobile non-ambulatory” means unable to walk without assistance but able to move from place to place with the use of devices such as walkers, crutches, wheelchairs, etc.

II. “Moral turpitude” means conduct contrary to justice, honesty, modesty or good morals including such acts as domestic abuse, drunk driving or other similar convictions.

JJ. “Neglect” means subject to the client’s right to refuse treatment and subject to the caregivers right to exercise sound medical discretion. The following apply:

(1) failure to provide any treatment, service, care, medication or item that is necessary to maintain the health or safety of a client; or

(2) failure to take any reasonable precaution that is necessary to prevent damage to the health or safety of a client; or

(3) failure to carry out a duty to supervise properly or control the provision of any treatment, care, good service or medication necessary to maintain the health or safety of a client; or

(4) any abuse as defined in NMSA 1978 32-A-4-2.

KK. “Non-mobile” means unable to move without assistance from place to place.

LL. “Partial compliance” means that a facility has moderate and few deficiencies and that these do not threaten the health and safety of clients or staff, so that it is able to receive a temporary license with the implementation of certain corrective action(s) within a prescribed time period.

MM. “Physical harm” means harm of a type that causes physical injury resulting in physical trauma to a client (visible injury that requires treatment in excess of primary first aid); loss or functional loss of a bodily member or organ or of a major life activity for a prolonged period of time; or loss of consciousness for any amount of time.

NN. “Policy” means a statement of principle that guides and determines present and future decisions and actions.

OO. “Premises” means all parts of buildings, grounds, vehicles and equipment of a facility.

PP. “Procedure” means the action(s) that will be taken to implement a policy.

QQ. “Programmatic services” means services provided to children to meet special needs above and beyond living accommodations, meals, care, and routine supervision.

RR. “Psychological harm” means harm that causes mental or emotional trauma or that causes behavioral change or physical symptoms that require psychological or psychiatric care.

SS. “Punishment” means a penalty imposed on a child for wrongdoing.

TT. “Residential treatment facility” means a facility that provides 24-hour therapeutic care to children and adolescents and is licensed for no more than 16 children/adolescents. This includes residential treatment centers, group homes, residential substance abuse facilities and other similar facilities.

UU. “Residential treatment” means 24-hour structured therapeutic group living for children and/or adolescents with severe behavioral, neurobiological, or emotional problems when documented history and clinical opinion establish that the needs of the child cannot be met in a less restrictive environment. Children admitted to residential treatment services are either in need of either active psychotherapeutic intervention or require a 24-hour therapeutic group living setting to meet their developmental, social and emotional needs.

VV. “Reduction in licensed capacity” means the reduction of licensed capacity of a residential facility until deficiencies noted by the LCA are corrected.

WW. “Restraint” means a mechanical device used to involuntarily physically restrict a clients freedom of movement, performance of physical activity, or have normal access to his or her body. It is limited to those situations with adequate, appropriate clinical justification and requires policies and procedures with clear criteria. Exception: This standard does not apply to therapeutic holding or comforting of children or to a timeout when the individual to whom it is applied is physically prevented from leaving a room for 15 minutes or less and when its use is consistent with behavior-management protocol.

XX. “Restricted admissions or provision of services” means the restriction of an agency from providing designated services and/or from accepting any new clients until specified deficiencies noted by the LCA are corrected.

YY. “Revocation” means the act of making a license null and void through its cancellation.

ZZ. “Seclusion” means the involuntary confinement of a client alone in a room where the individual is physically prevented from leaving and is limited to those situations with adequate, appropriate clinical justification, requiring policies and procedures with clear criteria.

AAA. “Seclusion room” means a room designed and utilized to isolate and contain a child who poses an imminent threat of physical harm to self or others or serious disruption to the environment.

BBB. “Self-administration of medications” means assistance and supervision of the child in the self-administration of a drug, provided that the medication is in the original container, with a proper label and directions. A staff member may hold the container for the child, assist with opening of the container, and assist the child in self-administering the medication.

CCC. “Serious incident” means an environmental hazard, arrest or detention, or situation that requires emergency services. Environmental hazards include unsafe conditions which create an immediate threat to life or safety, including, but not limited, to fire or contagious diseases requiring quarantine.

DDD. “Staff member” means any person other than the owner, operator or director of a facility who has contact with children in care and includes volunteers, full-time and part-time employees.

EEE. “Stay of sanction” means the department’s receipt of the facility’s notice of appeal will operate as a stay of suspension, revocation, or sanction. In case of an emergency suspension or emergency sanction neither the immediate five-day hearing nor the facility’s request for a later hearing will stay the department’s action.

FFF. “Substantial compliance” means that a facility that is found to be without deficiencies, or with minor and few non-health and safety deficiencies, and is able to receive annual licensure.

GGG. “Substantiated complaint” means a complaint determined to be factual, based on an investigation of events.

HHH. “Supervision” means the monitoring of the children’s whereabouts and activities by the facility staff in order to ensure health, safety, and welfare.

III. “Survey” means an entry, by the LCA, into a facility licensed, or required to be licensed, pursuant to these regulations, for examination of the premises and records, and interviewing of staff and children.

JJJ. “Suspension” means a temporary cancellation of a license pending an appeal hearing and/or correction of deficiencies. During a period of suspension, the medicaid provider agreement is not in effect.

KKK. “Treatment plan” means a plan, based on data gathered during the assessment, that identifies the treatment needs of the client being served, lists the strategies to meet those needs, documents measurable treatment goals and objectives, outlines the criteria and time frame for terminating specified interventions, and, when reviewed, documents the clients progress in meeting the specified goals and objectives.

LLL. “U/L approved” means approved for safety by the national underwriters laboratory.

MMM. “Unsubstantiated complaint” means a complaint not determined to be factual based on an investigation of events.

NNN. “Variance” means an act taken, at the sole discretion of the LCA, to refrain from pressing or enforcing compliance with a portion(s) of these regulations for an unspecified period of time for facilities which were in existence at the time these regulations were promulgated, new facilities in existing construction, or for new services when the granting of a variance will not create a danger to the health and welfare of children and staff of a facility.

OOO. “Waive/waiver” means to refrain from pressing or enforcing compliance with a portion(s) of these regulations for a limited period of time provided the health, safety, or welfare of the clients and staff are not in danger. Waivers are issued at the sole discretion of the licensing authority.

[1/1/99; 7.20.12.7 NMAC - Rn & A, 7 NMAC 20.12.7, 02/28/05]

7.20.12.8 RELATED REGULATIONS, LAWS AND CODES: These regulations supplement the following regulations, laws, codes and any future amendments to such regulations or superseding regulations.

A. New Mexico health department regulations governing the Control of Disease and Conditions of Public Health Significance 7.4.3 NMAC, effective August 15, 2003.

B. [RESERVED]

C. [RESERVED]

D. New Mexico health department regulations 7 NMAC 1.3, Health Records, effective October 31, 1996.

E. New Mexico health department 7 NMAC 26.6, Requirements for Developmental Disabilities Community Programs, effective January 15, 1997.

F. New Mexico health department 7 NMAC 20.2, Comprehensive Behavioral Health Standards, effective January 1, 2000.

G. New Mexico health department 7 NMAC 20.2, Comprehensive Behavioral Health Standards, effective January 1, 2000.

H. New Mexico health department regulations 7 NMAC 1.7, Health Facility Licensure Fees and Procedures, effective October 31, 1996.

I. New Mexico health department regulations 7 NMAC 1.2, Adjudicatory Hearings, effective February 1, 1996.

J. New Mexico health department regulations 8.8.3 NMAC, Governing Background Records Checks and Employment History Verification, effective October 30, 2003.

K. New Mexico health department 7.6.2 NMAC, Food Service and Food Processing, effective August 12, 2000.

L. New Mexico drug laws and board of pharmacy regulations, 16.19.1 NMAC through 16.19.29 NMAC.

M. The latest edition adopted by the New Mexico state fire board of the National Fire Protection Association Life Safety Code Handbook 101, June 9, 1997.

N. The latest edition of the building code adopted by the New Mexico construction industries division of the Uniform Building Code enacted by the international conference of building officials.

O. New Mexico health department regulations 7.5.2 NMAC, Immunization Requirement, effective September 1, 2000.

- P. Health facility licensure fees and procedures, department of health, 7 NMAC 1.7, effective October 31, 1996.
- Q. 7.20.11 NMAC, Certification Requirements for Child and Adolescent Mental Health Services, effective March 29, 2002.
- R. Health facility sanctions and civil monetary penalties 7 NMAC 1.8, effective October 31, 1996.
- S. 7 NMAC 1.2, Adjudicatory Hearings, effective February 1, 1996.
- T. New Mexico Childrens Code NMSA 32A-1-1 et. seq. (2004).
- [1/1/99; 7.20.12.8 NMAC - Rn & A, 7 NMAC 20.12.8, 02/28/05]

7.20.12.9 STANDARD OF COMPLIANCE:

- A. The degree of compliance required throughout these regulations is designated by the use of the words, "must" or "may". "Must" means mandatory. "May" means permissive.
- B. The use of the words "adequate", "proper", and other similar words mean the degree of compliance that is generally accepted throughout the professional field by those who provide residential or day-treatment services to the public in facilities governed by these regulations.
- [1/1/99; 7.20.12.9 NMAC - Rn, 7 NMAC 20.12.9, 02/28/05]

7.20.12.10 [RESERVED]

[1/1/99; 7.20.12.10 NMAC - Rn, 7 NMAC 20.12.10, 2/28/05; Repealed, 02/28/05]

7.20.12.11 INITIAL LICENSURE PROCEDURES: To apply for a license for a facility pursuant to these regulations the following procedures must be followed by the applicant.

A. These regulations must be used as a reference for design of a new building, renovation or addition to an existing building. The applicant of the proposed facility must advise the LCA of its intent to open a facility pursuant to these regulations.

B. Floor and site plans: All applications for initial licensure must be accompanied by a set of floor plans for the facility.

(1) Floor and site plans are of professional quality, on substantial paper of at least 18" x 24", and are drawn to an accurate scale of 1/4" to 1'.

(2) Floor plans include:

- (a) proposed use of each room, e.g., staff's bedroom, staff's toilet, children's bedrooms (include number of children intended to sleep in each room), living room, kitchen, laundry, etc.;
- (b) interior dimensions of all rooms;
- (c) one building or wall section showing exterior and interior wall construction; section includes floor, wall, ceiling, and the finishes, e.g., carpet, tile, gypsum board with paint, wood paneling;
- (d) door types, swing, and sizes of all doors, e.g., solid core, hollow core, 3'0" x 6'8" x 1 3/4" thick;
- (e) air conditioning, if applicable;
- (f) all sinks, tubs, showers and toilets;
- (g) windows including size, type, sill height, and openable area;
- (h) any level changes within the building, e.g., sunken living room, ramps, steps;
- (i) a site/plot plan must be provided to indicate surrounding conditions including all steps, ramps, parking, walks and any permanent structures;
- (j) indicate if the building is new construction, remodeled or alteration addition; if remodeled or an addition, the plans indicate existing and new construction plans.

C. Floor and site plans are reviewed by the LCA for compliance with current building and fire codes, and comments will be sent to the applicant specifying any needed changes or requests for any additional information.

D. Licensing phase: Prior to completion of construction, renovation or addition to an existing building the applicant must submit to the LCA the following.

(1) The application form, which is obtained from LCA, completed by typing or printing all the information requested, and dated, signed and notarized by the applicant.

(2) Fees: All applications for licensure are accompanied by the required fee.

(a) Current fee schedules are available from the LCA.

(b) Fee payments must be in the form of a certified check, money order, personal, or business check is made payable to the state of New Mexico.

(c) Fee payments are non-refundable.

(3) Zoning and building approval:

(a) The agency provides an initial application accompanied with the written approval from the appropriate authority, such as city, county, or municipality.

(b) The agency provides an initial application accompanied with original written building approval (certificate of occupancy), from the appropriate authority, city, county, or municipality.

(4) Fire authority approval: All initial applications are accompanied with written approval from the fire authority having jurisdiction.

(5) New Mexico environment department approval:

(a) For private water supply, if applicable.

(b) For private waste or sewage disposal, if applicable.

(6) Copy of appropriate drug permit: Issued by the state board of pharmacy, if applicable.

E. Initial survey: Upon receipt of a properly completed application including all supporting documentation as outlined above, an initial survey of the proposed facility must be scheduled by the LCA.

F. Issuance of license: Upon completion of the initial survey and determination that the facility is in substantial or partial compliance with these regulations, the LCA may issue a license.

[1/1/99; 7.20.12.11 NMAC – Rn & A, 7 NMAC 20.12.11, 02/28/05]

7.20.12.12 LICENSES:

A. Annual license: The LCA may, at its sole discretion, issue a license for up to one year to a facility which is determined to be in substantial compliance with these regulations.

B. Temporary license: The LCA may, at its sole discretion, issue a temporary license prior to the initial on-site survey, or if upon an on-site survey if it determines the facility to be in partial compliance with these regulations.

(1) A temporary license may cover, depending upon the severity/chronicity of the deficiencies and at the discretion of the LCA, any period of time, not to exceed 180 calendar days, during which time the facility must correct all specified deficiencies. In order to be issued a temporary license, deficiencies may not be violations of health and safety standards.

(a) The facility must submit an action plan within the time frame the LCA determines. The LCA approves the action plan. The facility is then either inspected on-site again, or is required to submit proof of correction through submission of appropriate and relevant documentation within the time frame the LCA specifies.

(b) If the facility does not meet licensing requirements at the end of the temporary licensure period, a sanction is imposed along with a second temporary license or the temporary license expires. Only two consecutive temporary licenses are granted.

(2) When a temporary license is issued, the previous license and its expiration date become null and void, and the temporary license effective dates are in effect.

C. Amended license: A licensee applies to the LCA for an amended license when there is a change of a licensee; a change of the facility name; or change of capacity.

(1) A request for an amended license is submitted in writing to the LCA.

(2) The request is accompanied by the required fee for the amended license.

(3) The request is submitted within ten business days of the changes listed in Subsection C of 7.20.12.12 NMAC.

(4) Upon receipt of the completed application and fee, an on-site survey is performed by the LCA prior to the issuance of the amended license.

[1/1/99; 7.20.12.12 NMAC - Rn, 7 NMAC 20.12.12, 02/28/05]

7.20.12.13 LICENSE RENEWAL:

A. The licensee submits a renewal application on the forms obtained from the LCA, along with the required fee, within 60 days prior to the expiration of the current license.

B. Upon receipt of the renewal application and required fee, and prior to the expiration of the current license, the LCA conducts an on-site survey and issues a new license effective the day following the date of expiration of the current license if the facility is in substantial compliance with these regulations.

C. NMSA 1978 24-1-5 (a) (1997) or as amended, provides that no health facility is operated without a license. If a licensee fails to submit a renewal application with the required fee and the current license lapses, the facility ceases operations until it obtains a new license through the initial licensure procedures.

D. If the licensee submits the required renewal application and the LCA does not survey a facility by the expiration date of the current license, the current license continues in effect until the LCA conducts a renewal survey and issues a new license.

[1/1/99; 7.20.12.13 NMAC - Rn, 7 NMAC 20.12.13, 02/28/05]

7.20.12.14 POSTING OF LICENSE: The facility's license is posted on the licensed premises in an area visible to the public.

[1/1/99; 7.20.12.14 NMAC - Rn, 7 NMAC 20.12.14, 02/28/05]

7.20.12.15 NON-TRANSFERABLE RESTRICTIONS ON A LICENSE: A license is nontransferable otherwise to other persons or locations.

A. The license is null and void and is returned to the LCA when any one of the following situations occur:

- (1) ownership of the facility changes;
- (2) the facility changes location;
- (3) the licensee of the facility changes;
- (4) the facility discontinues or suspends operations.

B. A facility wishing to continue operation as a licensed facility under the above-mentioned circumstances submits an application for an amended licensure in accordance with these regulations at least 30 calendar days prior to the anticipated change.

[1/1/99; 7.20.12.15 NMAC - Rn, 7 NMAC 20.12.15, 02/28/05]

7.20.12.16 AUTOMATIC EXPIRATIONS OF A LICENSE:

A. a license automatically expires at midnight on the day indicated on the license as the expiration date, unless renewed, suspended, or revoked; or

B. the day a facility discontinues or suspends operation; or

C. the day a facility is sold, leased, or otherwise changes ownership and/or licensee; or

D. the day a facility changes location.

[1/1/99; 7.20.12.16 NMAC - Rn, 7 NMAC 20.12.16, 02/28/05]

7.20.12.17 SUSPENSION OR REVOCATION OF A LICENSE OR IMPOSITION OF EMERGENCY SANCTIONS WITHOUT PRIOR HEARING: In accordance with Section 24-1.5 (H) NMSA 1978, if immediate action is required to protect human health and safety, the LCA may immediately suspend or revoke a license or impose emergency sanctions pending a hearing, provided such hearing is held within five working days of such action, unless waived by the licensee.

[1/1/99; 7.20.12.17 NMAC - Rn, 7 NMAC 20.12.17, 02/28/05]

7.20.12.18 GROUNDS FOR REVOCATION, SUSPENSION OF LICENSE, DENIAL OF INITIAL OR RENEWAL APPLICATION FOR LICENSE, OR IMPOSITION OF SANCTIONS: A license may be revoked or suspended; an initial or renewal application for license may be denied; or sanctions may be imposed after notice and opportunity for a hearing, for any of the following:

A. failure to comply with any provision(s) of these regulations;

B. failure to allow surveys by authorized representatives of the LCA;

C. employment of any person convicted of a felony or misdemeanor including a misdemeanor involving moral turpitude or presence at a facility of a staff member under the influence of alcohol or mood-altering drugs; if after employment, a staff member is charged and/or convicted of a felony or misdemeanor involving moral turpitude and it is known to the agency, it is immediately reported to the LCA;

D. purposeful or intentional misrepresentation(s) or falsification(s) of any information on application forms or other documents provided to the LCA;

E. discovery of repeat violations of these regulations or failure to correct deficiencies of survey findings in current or past contiguous or noncontiguous licensure periods;

F. presence of and/or a history of licensure revocation, suspension, denial, sanction or penalty or other similar disciplinary actions taken by regulatory bodies in other states regardless of whether any of these actions resulted in a settlement in lieu of a sanction;

G. failure to provide the required care and services as outlined by these regulations for the clients receiving care at the facility;

H. exceeding licensed capacity, except in an emergency.
[1/1/99; 7.20.12.18 NMAC - Rn, 7 NMAC 20.12.18, 02/28/05]

7.20.12.19 HEARINGS AND APPEALS:

A. Appeals of any sanction except revocation or suspension of a license or imposition of emergency sanction(s) without prior hearing as outlined in Section 17 above, are made in writing to the LCA within 10 business days of receipt of the official notice of revocation, suspension, denial of licensure or sanction.

B. When an appeal is filed the sanction is stayed until a hearing is held and final determination issued or an informal resolution reached, unless it is an emergency revocation or suspension of license or imposition of emergency sanctions. A hearing will be held within 30 calendar days.

C. The entity filing the appeal may also request an informal resolution conference at that time. The purpose of the informal resolution conference is to allow the entity receiving the sanction an opportunity to present information on plans to remedy deficiencies and discuss possible pre-hearing dispositions. This does not apply to the emergency revocation or suspension of a license or to the imposition of emergency sanctions.

D. The LCA and the licensee may informally resolve any filed or potential appeal arising from the imposition of sanctions. However, in the case of an emergency revocation or suspension of licensure and/or the imposition of an emergency sanction, there is no stay available.

[1/1/99; 7.20.12.19 NMAC - Rn, 7 NMAC 20.12.19, 02/28/05]

7.20.12.20 SANCTIONS:

A. Action plan: The LCA directs a facility to correct deficiencies within the time frame specified by the LCA through the submission of an action plan. At the discretion of the LCA, the action plan can be written by the facility and approved by the LCA or it may be a directed action plan that the LCA writes and is enforced by the facility within the time frame specified by the LCA. The facility produces proof of correction through submission of appropriate and relevant documentation. The LCA may conduct an on-site visit to review the facility, with emphasis on the previously noted deficiencies. If another on-site visit reveals other deficiencies, the LCA may amend either the action plan or the directed action plan to require compliance with any other deficiencies noted.

B. Restricted admissions or provision of services: The LCA restricts the facility from accepting any new clients or expanding into additional services until such time the identified deficiencies are corrected.

C. Maintenance or reduction of capacity: The LCA directs the facility to maintain or reduce the capacity of the facility until deficiencies are corrected and the LCA approves the corrections.

D. Compliance monitor: The LCA may select a compliance monitor for a specified period of time to closely observe a facility's compliance efforts. The compliance monitor has authority to review all applicable facility records, policies, procedures and financial records and the authority to interview facility staff and clients. The compliance monitor may also provide consultation to the facility management to correct violations. The facility pays all costs of the compliance monitor.

E. Temporary management: The LCA may appoint professional temporary management with expertise in the field of child and adolescent mental health services the facility provides. The management appointed is primarily responsible for overseeing the operation of the facility, to protect the health and safety of its clients, to assess the correction of deficiencies, or to facilitate an orderly closure. The facility pays all costs of temporary management.

F. Suspension: The LCA suspends licensure for a specified period of time pending correction of deficiencies. During a period of suspension, the medicaid provider agreement terminates on the date of suspension.

G. Denial or revocation of license: The LCA denies initial licensure or renewal of licensure based upon deficiencies related to:

- (1) abuse, neglect or exploitation of a client(s); or
- (2) presence of, and/or a history of health and safety deficiencies found in current or previous surveys or on-site visits; or
- (3) presence of, and/or a history of, licensure revocation, suspension or denial or sanctions or penalties or other similar disciplinary actions taken by the regulatory bodies in other states; or

- (4) noncompliance with health and safety related regulations.

H. In such circumstances the medicaid provider agreement terminates on the date of such denial or revocation.

[1/1/99; 7.20.12.20 NMAC - Rn, 7 NMAC 20.12.20, 02/28/05]

7.20.12.21 CURRENTLY LICENSED FACILITIES:

A. Any facility currently licensed on the date these regulations are promulgated and which provides the services prescribed under these regulations, but which fails to meet all building requirements, may, at the discretion of the LCA, continue to be licensed as a residential facility.

B. Variances may be granted for those building requirements the facility cannot meet, provided:

(1) the variances granted will not create a hazard to the health, safety and welfare of the clients and staff or otherwise deny access to any disabled person who is otherwise qualified to receive services from the facility; and

(2) the building requirements for which variances are granted cannot be corrected without an unreasonable expense to the facility; and

(3) variances are not in conflict with existing building and fire codes; and

(4) variances granted are recorded and made a permanent part of the facility file; and

(5) variances granted continue to be in effect as long as the facility continues to provide services pursuant to these regulations and meet the criteria of Subsection A of 7.20.12.21 NMAC above; these variances are not transferred to a different facility or transferred/assigned upon the sale of the facility.

[1/1/99; 7.20.12.21 NMAC - Rn & A, 7 NMAC 20.12.21, 02/28/05]

7.20.12.22 NEW FACILITY:

A. If a facility is opened in an existing building, a variance may be granted for those building requirements the facility cannot meet under the same criteria outlined in Paragraphs (1), (2) and (3) of Subsection B of 7.20.12.21 NMAC of these regulations and if not in conflict with existing building and fire codes. Such a variance is granted at the sole discretion of the LCA.

B. A new facility opened in a newly constructed building must meet all requirements of these regulations.

[1/1/99; 7.20.12.22 NMAC - Rn, 7 NMAC 20.12.22, 02/28/05]

7.20.12.23 FACILITY SURVEYS:

A. A survey by the LCA is conducted at a minimum of once per year in each facility licensed pursuant to these regulations. Additional surveys or on-site visits may be made to provide the facility with technical assistance, and/or to assess/monitor progress with correction of violations found on previous surveys or to investigate complaints or allegations of abuse, neglect or exploitation.

B. The facility is provided with a written report of the findings within 20 business days of completion of the survey.

C. The facility may be required to submit an action plan, approved by the LCA, within 15 business days of receipt of the findings. The action plan may be a directed action plan due to the serious nature of the deficiencies and the LCA will expect health and safety deficiencies to be corrected immediately.

D. The LCA, at its sole discretion, may accept the action plan as written or require modifications of the action plan by the licensee.

E. Application for licensure, whether initial or renewal, constitutes permission for entry into, and surveys of, a facility by the authorized LCA representatives at reasonable times while the application is pending, and if licensed, during the licensure period.

F. LCA surveyors have the right to enter upon and into the premises of any facility which is licensed or required to be licensed, whether or not an application for licensure has been made, at any reasonable time for the purpose of determining the state of compliance with these regulations.

G. On-site surveys are announced or unannounced at the sole discretion of the LCA.

[1/1/99; 7.20.12.23 NMAC - Rn, 7 NMAC 20.12.23, 02/28/05]

7.20.12.24 REPORTING OF INCIDENTS: All facilities licensed pursuant to these regulations must report to the LCA within 24 hours, any serious incident or unusual occurrence which has, or could threaten the health, safety, or welfare of the clients or staff of the facility. Such incidents may include, but are not limited to:

- A. fire, flood, or other natural disaster which creates structural damages to the facility or poses health hazards;
- B. any outbreak of contagious disease dangerous to the public health;
- C. any human act(s) by staff members of the facility which presents or poses possible physical and/or psychological health hazards;
- D. any human act(s) by staff member(s) of the facility which results in the serious illness, injury, or physical and/ or psychological impairment of a client;
- E. any death of a client;
- F. any suspected client abuse, neglect or exploitation of a client, as defined in these regulations;
- G. incidents that include acts of physical harm to a client or by staff or other clients;
- H. absence of clients without permission, including not returning from a pass, for longer than 24 hours past the designated return time;
- I. any non-informational call made to poison control involving potential harm to a client or resulting in treatment of a client.

[1/1/99; 7.20.12.24 NMAC - Rn, 7 NMAC 20.12.24, 02/28/05]

7.20.12.25 COMPLAINT AND INVESTIGATION PROCEDURES:

- A. Submission of complaints: Complaints regarding any facility licensed pursuant to these regulations are submitted to the LCA.
 - (1) Complaints are submitted in writing and may be signed by the complainant.
 - (2) Complainants who telephone the LCA are able to provide necessary information needed by the LCA in order to document the complaint.
- B. Initiation of investigation: The department screens, and if it deems appropriate, will initiate an investigation within 30 business days from receipt of a complaint. If it is probable that the health, safety, or welfare of a child is in jeopardy, the complaint is investigated as soon as possible after the complaint is made.
- C. Results of investigation: The licensee of the facility is notified of the results of the investigation.
- D. Anonymity may be requested by the complainant, but cannot be guaranteed.
- E. Action by the LCA in response to a complaint:
 - (1) Unsubstantiated complaint: A complaint which is unsubstantiated by the LCA is not made part of the facility file and the LCA takes no further action.
 - (2) Substantiated complaint: The LCA may take the following actions if a complaint is substantiated:
 - (a) require the facility to submit a written action plan to the LCA;
 - (b) impose other sanctions that may include, but not be limited to, the denial, suspension or revocation of a license, or the filing of criminal charges, or a civil action which may be initiated by the LCA.

[1/1/99; 7.20.12.25 NMAC - Rn, 7 NMAC 20.12.25, 02/28/05]

7.20.12.26 CAPACITY OF A FACILITY: The capacity of a facility licensed pursuant to these regulations is determined by the following.

- A. All residential treatment facilities are limited to a total capacity of 16 children in a single residential building.
- B. By square footage of childrens sleeping rooms as specified by these regulations.
- C. The capacity as reflected on the license issued to a facility licensed pursuant to these regulations must not be exceeded at any time. Exception: The facility may exceed its licensed capacity for a period not to exceed 72 hours due to emergency placements by families, juvenile probation and parole officers, sheriff, police, court or protective services. The facility notifies the LCA within one business day of the event.

[1/1/99; 7.20.12.26 NMAC - Rn, 7 NMAC 20.12.26, 02/28/05]

7.20.12.27 REPORTS AND RECORDS REQUIRED TO BE ON FILE IN THE FACILITY: Each facility licensed pursuant to these regulations maintains the following reports and records on file and makes them available for review upon request by the LCA.

- A. Exception: Agencies having multiple facilities in the same city or town may keep reports and records on file in a central location. For such facilities the information is made readily available to the LCA and includes:
 - (1) a copy of the latest fire inspection report by the fire authority having jurisdiction; and
 - (2) a copy of the last survey conducted by the LCA including any variances granted; and

- (3) records of monthly fire and emergency evacuation drills conducted by the facility; and
 - (4) health certificates of staff; and
 - (5) agreements or contracts with other health care providers to provide services that are not available in the facility, if applicable; and
 - (6) a copy of a current pharmacy license, if applicable; and
 - (7) latest inspection of drug room by state board of pharmacy, if applicable; and
 - (8) New Mexico environment department approval of private waste or sewage disposal, if applicable.
- B. New Mexico environment department approval of kitchen and food management and, if applicable, survey reports of private water supply, private waste and/or sewage disposal. Exception: Those facilities which have been exempted by the environmental improvement division or recognized local authority from meeting the requirements for kitchens and food service [because of the program], have the exemption on file.
- C. One month of menus of meals served in the facility.
- D. Documentation of staff criminal record checks and verification of employment history as required by these regulations.
- E. A valid drug permit issued by the state board of pharmacy for those facilities licensed pursuant to these regulations who as a regular part of their program supervise the administration and/or clients self-administration of medication and safeguard medications for the children in care.
- F. A copy of staff members current American red cross, or other recognized organizations, standard first aid certificate, for all direct care staff within 90 days of employment.
[1/1/99; 7.20.12.27 NMAC - Rn, 7 NMAC 20.12.27, 02/28/05]

7.20.12.28 FACILITY RULES:

- A. Each facility has written rules which are age appropriate and clear and understandable to the children in care. The rules include but are not limited to the following:
- (1) the use of tobacco or alcohol;
 - (2) the use of the telephone;
 - (3) visitors and visiting hours;
 - (4) daily routine of the facility such as bed times, free time, study hours, use of personal possessions, playing of radios and watching television; and
 - (5) leaving the premises of the facility.
- B. Facility rules are posted in an area of the facility readily available to the children.
- C. Prior to placement in, or admission to, a facility, the rules are explained to the child, parents, or legal guardian in a language they can understand.
[1/1/99; 7.20.12.28 NMAC - Rn, 7 NMAC 20.12.28, 02/28/05]

7.20.12.29 STAFF RECORDS: Each facility licensed pursuant to these regulations maintains a complete record on file for each staff member or volunteer. Staff records are made available for review upon request of the LCA.

- A. Staff records contain at a minimum the following:
- (1) name;
 - (2) address and telephone number;
 - (3) position for which employed;
 - (4) date first employed;
 - (5) documentation of a minimum of three references checked
 - (6) a person(s) to contact in case of an emergency;
 - (7) a copy of the employees first aid certificate;
 - (8) health certificate stating that the employee is free from tuberculosis in a transmissible form as required by the New Mexico department of health regulations, Control of Communicable Disease in Health Facility Personnel, 7.4.4 NMAC.
 - (9) A clearance letter from the department stating the criminal records check has been conducted with negative results or; a signed statement by the administrator, director, or operator attesting to direct supervision of an uncleared employee by a cleared employee until official clearance is received.
 - (a) Each uncleared employee is identified on the staff schedule.
 - (b) The staff schedule reflects changes as they occur.
- B. A daily attendance record of all staff is kept in the facility.

C. The facility keeps daily, weekly and monthly schedules of all staff. These schedules are kept on file for at least 12 months.
[1/1/99; 7.20.12.29 NMAC - Rn, 7 NMAC 20.12.29, 02/28/05]

7.20.12.30 POLICIES AND PROCEDURES: All facilities licensed pursuant to these regulations have written policies and procedures for the following:

- A. reporting of suspected child abuse, neglect or exploitation, pursuant to these regulations;
- B. actions to be taken in case of accidents or emergencies involving a child, including death;
- C. disciplinary methods utilized by the facility;
- D. actions to be taken when a child is found to be absent without authorization for longer than 24 hours;
- E. the administration of medication;
- F. confidentiality of the childrens records;
- G. the use of seclusion rooms and/or restraints, if used by the facility;
- H. maintenance of building(s) and equipment;
- I. fire and evacuation;
- J. administration and preparation of drugs;
- K. the handling of complaints received from clients, parents, guardians or any other person;
- L. adequate staff coverage to meet the acuity needs of the treatment population which are reassessed and adjusted when clinically indicated.

[1/1/99; 7.20.12.30 NMAC - Rn, 7 NMAC 20.12.30, 02/28/05]

7.20.12.31 CHILDREN AND ADOLESCENT MENTAL HEALTH SERVICES PERSONNEL AND STAFF REQUIREMENTS:

A. Criminal record checks: The agency conducts appropriate, legally permissible and mandated state and federal criminal records inquiries into the background of agency personnel, including employees and volunteers, and prospective employees and volunteers. Agency personnel means current and prospective operators, staff, employees and volunteers.

B. All requests for a federal background check will be submitted within one week after commencement of employment or volunteer service of those persons who, following receipt of a background check clearance, have direct, unsupervised contact with children. The agency verifies that the fingerprints were submitted to the state of New Mexico department of public safety and the federal bureau of investigation.

(1) An agency staff member who has not received a background check clearance works under the direct continuous physical supervision of a staff member who has received the mandated federal criminal records check clearance until a clearance is obtained.

(a) Exception: A new employee or volunteer who has been a resident of the state of New Mexico for no less than five continuous years immediately preceding the commencement of employment or volunteer service with the agency and has received a background clearance (meaning a negative criminal record check), from the state of New Mexico and local law enforcement agencies pursuant to a request from the employing agency. This exception applies only for 180 days following the original request for a federal background clearance check, and is subject to the following requirements:

(b) The use of the services of an agency contracted by the department of public safety (DPS) who can access the DPS database in order to obtain state criminal background checks for those applicants who have resided in the state of New Mexico for five years or more may be utilized as a means of obtaining state criminal records checks prior to employment. Federal finger printing is still required. The use of an alternate method to obtain state criminal background checks does not replace the federal fingerprinting requirement.

(2) An individual is not eligible for continued employment or service as a volunteer after being notified that the federal background check reveals information that would disqualify the individual from employment or work as a volunteer in the agency. The agency is on violation of this standard if it retains the individual in employment or volunteer service.

(a) If the agency has not received a federal background check clearance within 180 calendar days after the original request, the employee or volunteer remains under the direct physical supervision of a cleared staff until the federal background check is received and known to the agency.

(b) The department may extend the 180 calendar day period up to an additional 120 days, if the agency is able to verify, to the satisfaction of the department, that the agency has done everything required to obtain

a completed federal background check within the required time frame and the report has not been received due to circumstances beyond the control of the agency.

(c) In those instances where extensions of time are granted, the employee or volunteer remains within line of sight of a cleared staff member until such time the results of the federal background check are received and known to the agency.

(3) Any employee or volunteer who has received state and federal background clearance while employed by, or providing services at, another agency within 180 calendar days of commencement of employment of service with the agency, is not required to undergo an additional federal background check unless the agency itself requires or requests it or the department believes it has cause to request it.

(4) If the prospective employee is not a United States citizen, a criminal records clearance or its equivalent from the persons country of origin is required if the individual has not lived in the United States for five continuous years.

(5) Non-compliance with these criminal records checks standards may result in sanction or loss of licensure.

C. Staff members who work directly with children and who are counted in the staff-to-child ratio are 18 years of age or older.

D. The director and all staff having direct contact with the children including volunteers, administrative, clerical, maintenance or other support staff, comply with the regulations governing criminal record checks and employment history verification.

E. Persons under the age of 18 at all times work directly under the supervision of a staff member who is physically present. Such persons are not counted in the staff coverage.

F. Persons employed solely for clerical, cooking, maintenance or other support activities who are not left with children unsupervised, are not included in the staff coverage.

G. Student trainees in psychiatry, psychology, social work and /or nursing, who are officially enrolled in a clinical training program of a New Mexico accredited institution of higher learning, and who are under the supervision of a cleared New Mexico licensed practitioner as defined by the certification requirements for child and adolescent mental health services and who are cleared by a state criminal records check, which may include clearance from DPS, or a department approved state clearance mechanism, may be allowed to work with children unsupervised during their enrolled student tenure if the trainee signs a sworn affidavit attesting that he or she has never been convicted of a crime which would disqualify him or her from providing direct services to children as provided by these regulations.

[1/1/99; 7.20.12.31 NMAC - Rn, 7 NMAC 20.12.31, 02/28/05]

7.20.12.32 OUTDOOR PLAY AREAS, EQUIPMENT, TOOLS, VEHICLES, AND OTHER LIKE ITEMS: Facilities providing services to children 12 years of age and younger will have an outdoor play area.

A. The play area is provided with appropriate equipment to the age level of the children.

B. A facility play area located adjacent to a public street or highway will have the play area fenced with at least one latched gate available for emergency exits.

C. All stationary outdoor play equipment for children is positioned in a way which helps prevent accidents, permit freedom of action, and is securely fastened to the ground.

(1) Outdoor play equipment for children include energy-absorbing surfaces underneath and is maintained in good repair at all times.

(2) Power-driven tools and equipment, motor vehicles, chemicals, and like items of a dangerous nature are kept locked and secured from children. Any use of such items by the children is done only under the general supervision of a staff member.

[1/1/99; 7.20.12.32 NMAC - Rn, 7 NMAC 20.12.32, 02/28/05]

7.20.12.33 COUNSELING AREA: A facility will provide a designated room or area to allow private discussions and counseling sessions, as appropriate, between individual children, families, staff and others as appropriate.

[1/1/99; 7.20.12.33 NMAC - Rn, 7 NMAC 20.12.33, 02/28/05]

7.20.12.34 EDUCATION: Each facility licensed pursuant to these regulations ensures that every child in residence attend(s) an appropriate education program in accordance with New Mexico state law.

[1/1/99; 7.20.12.34 NMAC - Rn, 7 NMAC 20.12.34, 02/28/05]

7.20.12.35 TRANSPORTATION: Each facility licensed pursuant to these regulations, which transports children as part of their program activities, meets the following requirements:

- A. Any vehicle used for transporting children must carry vehicle liability insurance. The amount of coverage is not to be less than the basic limits set by the financial responsibility law.
- B. Each vehicle used for transportation of children is licensed, registered and meet(s) all applicable laws of the state of New Mexico.
- C. Occupancy in a vehicle cannot exceed the capacity recommended by the manufacturer and as appropriate, restraints are used during transportation.
- D. Drivers of vehicles used to transport children are licensed and abide by state and local laws.
- E. Seat belt restraint laws of the state of New Mexico are adhered to at all time.
- F. Children must not be transported in the back of open trucks.
- G. Each vehicle used for transportation of children are equipped with a fire extinguisher and first aid kit.
- H. Children are loaded and unloaded at the curb side of the vehicle.
- I. Each child remains seated while the vehicle is in motion and age-appropriate restraints are used during transportation.

[1/1/99; 7.20.12.35 NMAC - Rn, 7 NMAC 20.12.35, 02/28/05]

7.20.12.36 IMMUNIZATIONS:

- A. Every child in the facility is immunized according to the immunization schedule of the New Mexico health department, public health division, immunization schedule.
- B. When an immunization record cannot be obtained for the child at the time of admission or within 30 days after admission, the facility arranges for all immunizations required by the department of health.
- C. Exemptions from immunizations for religious or other grounds are only accepted if approved by the public health division of the department of health.

[1/1/99; 7.20.12.36 NMAC - Rn, 7 NMAC 20.12.36, 02/28/05]

7.20.12.37 NOTIFIABLE DISEASES:

- A. While in a facility, any child who becomes ill from a suspected notifiable disease, as defined by the New Mexico department of health is immediately referred to a physician or medical facility.
- B. Each facility reports any notifiable disease occurring to a child to the local public health field office. A current list of notifiable diseases published by the public health (health services) division of the department of health, can be obtained from the public health division upon request.

[1/1/99; 7.20.12.37 NMAC - Rn, 7 NMAC 20.12.37, 02/28/05]

7.20.12.38 MANAGEMENT OF DRUGS AND PHARMACEUTICALS:

- A. Other than over-the-counter medication, a facility does not acquire, store or dispense medications.
 - (1) Exception: Medication for a particular child prescribed by a licensed physician, licensed doctoral level psychologist, nurse practitioner, or dentist, such as may be needed for the child's health care.
 - (2) Exception: Facilities providing services which require regular use of controlled and/or prescription medication for the children under care must hold and display an appropriate drug permit as determined by the state board of pharmacy.
- B. All medications and poisonous substances must be kept in a locked cabinet or other container inaccessible to the children. The key to the medication storage container is only available to the authorized staff.
- C. Poisonous substances and medications labeled for external use only are not accessible to children and are kept separate from other medication.
- D. Medications prescribed for one child are not provided to any other child.
- E. All prescribed medications are kept in their original prescription containers.
- F. Only medications which can be self-administered by the child or with assistance and supervision in self-administration are kept in the facility. Exception: Facilities which require regular use of controlled or prescription medication administered by a physician, dentist, or nurse are kept by a facility and administered in accordance with the appropriate drug permit issued by the state board of pharmacy.
- G. Medication prepared for self-administration or administration by staff are not prepared in advance.

H. All medication given to a child is entered in the child's record with the date, time and dosage and initials of the staff member assisting with the self-administration of the medication.

I. Medications which require refrigeration are kept in a separate locked box within a refrigerator, a locked refrigerator, or a refrigerator in a locked room.

J. All outdated medications are disposed of in a manner approved by the state board of pharmacy.

K. The staff member assisting is self administration of medication may hold the container, assist the child in opening the container and assist the child in self-administering the medication. Exception: When a facility has a nurse registered in the state of New Mexico on the staff who prepares dosages and administers the medication to the children, the nurse may administer the medication.

[1/1/99; 7.20.12.38 NMAC - Rn, 7 NMAC 20.12.38, 02/28/05]

7.20.12.39 SERVICES AND CARE OF CHILDREN IN RESIDENTIAL TREATMENT SERVICES:

A. A facility licensed pursuant to these regulations makes every effort to achieve a normal homelike environment for the children in care.

B. The health, safety and welfare of children must be the primary concern in all activities and services provided by facilities licensed pursuant to these regulations.

[1/1/99; 7.20.12.39 NMAC - Rn, 7 NMAC 20.12.39, 02/28/05]

7.20.12.40 CHILDREN'S ROOMS: Each child's room is provided with, but not limited to, the following:

A. a bed as defined in Subsections A - F of 7.20.12.41 NMAC;

B. a dresser or other adequate storage space for private use;

C. an individual closet or closet areas with a clothes rack and a shelves accessible to the child;

D. a table or desk with a reading lamp and chair, or a well-lighted area within the facility with desk or table for a study area;

E. window shades, drapes, or blinds in good repair;

F. exception: any item other than the bed may be removed from a child's room if it is documented in the child's record that such items would be a danger to the health or safety of the child.

[1/1/99; 7.20.12.40 NMAC - Rn, 7 NMAC 20.12.40, 02/28/05]

7.20.12.41 CHILDREN'S BEDS:

A. Children's beds are at least 30 inches wide, of sturdy construction and in good repair.

B. If bunk beds are used, the vertical distance between the mattresses is sufficient to allow each occupant to sit up comfortably in bed.

C. Each bed has a clean, comfortable, nontoxic mattress which is waterproof or has a waterproof covering and a comfortable mattress pad.

D. Each bed is provided with a clean, comfortable pillow and pillow case.

E. Each bed is provided with two clean sheets and bedding that is appropriate for weather and climate.

F. Beds are spaced at least 36 inches apart.

[1/1/99; 7.20.12.41 NMAC - Rn, 7 NMAC 20.12.41, 02/28/05]

7.20.12.42 LIVING AND/OR MULTI PURPOSE ROOMS: Each facility includes a living and/or multi purpose room for the children's use. Such rooms are provided with reading lamps, tables, chairs, couches, or settees. These furnishings are well constructed, comfortable and kept in good repair.

[1/1/99; 7.20.12.42 NMAC - Rn, 7 NMAC 20.12.42, 02/28/05]

7.20.12.43 DINING AREA: A dining room is provided for meals.

A. Tables and chairs for the dining room accommodate the number of children for whom the facility is licensed.

B. The living and/or multi purpose room may be used as a dining area if the dining area portion does not exceed 50 percent of the available floor space and still allows comfortable arrangement of necessary furnishings for a living area.

[1/1/99; 7.20.12.43 NMAC - Rn, 7 NMAC 20.12.43, 02/28/05]

7.20.12.44 LAUNDRY AND LINEN SERVICES:

A. The facility provides laundry services to the children either on the premises or by use of a commercial laundry or linen service. The following minimum requirements for clean linen and clothing are:

- (1) the sheets and pillow case are changed at least one time per week and/or when there is a change of occupant;
- (2) the mattress pad, blankets and bedspread are laundered at least one time per month and/or when there is a change of an occupant; the mattress is turned at least one time per month;
- (3) a face towel, bath towel, and washcloth are changed at least every other day.

B. If laundry services are provided on the premises, each laundry room or area is equipped with a washer and dryer.

C. Children may do their own laundry if they are capable and wish to do so, or if it is part of their training or rehabilitation program.

D. Soiled linen and clothing are stored in bags or containers until washed.

E. Under no circumstance is collection, sorting, storage, or washing of soiled clothing or linens done in a food preparation, food storage, or food service area.

F. A separate, dry, well-ventilated storage area for clean linen is provided.

[1/1/99; 7.20.12.44 NMAC - Rn, 7 NMAC 20.12.44, 02/28/05]

7.20.12.45 CLOTHING:

A. Each child has his or her own clothing which is clean, neat, in good repair and appropriate to the season.

B. If necessary, children's clothing is inconspicuously marked with his or her name.

C. The use of a common clothing pool is strictly prohibited.

[1/1/99; 7.20.12.45 NMAC - Rn, 7 NMAC 20.12.45, 02/28/05]

7.20.12.46 PERSONAL POSSESSIONS:

A. A facility allows a child in care to bring his or her personal belongings to the facility and to acquire belongings of their own while living in the facility.

B. The facility may, within reason, and because of the child's program or treatment plan, limit or supervise the use of these items while the child is in residence.

C. Where extraordinary limitations are imposed, the child is informed by the facility of the reasons, and the reasons are recorded in the child's record.

D. The facility makes provisions for the protection of the children's property.

[1/1/99; 7.20.12.46 NMAC - Rn, 7 NMAC 20.12.46, 02/28/05]

7.20.12.47 PETS:

A. Pets are permitted and encouraged in a facility licensed pursuant to these regulations for the enjoyment of the children.

B. Pets are not permitted in the kitchen or food preparation areas.

C. Pets are inoculated as required by state or local law and records of inoculation kept on file in the facility.

[1/1/99; 7.20.12.47 NMAC - Rn, 7 NMAC 20.12.47, 02/28/05]

7.20.12.48 PERSONAL HYGIENE: Each child is provided with his or her own clearly identified toothbrush, comb, hair brush and other items for personal hygiene.

[1/1/99; 7.20.12.48 NMAC - Rn, 7 NMAC 20.12.48, 02/28/05]

7.20.12.49 MEDICAL CARE:

A. A residential facility licensed pursuant to these regulations arranges for a general medical examination by a physician for each child in care within 30 calendar days of admission unless the child has received such an examination within 12 months before admission and the results of the examination are available to the facility. These examinations conform to the requirements of the EPSDT screen.

(1) The facility arranges to secure timely and medically appropriate treatment for any condition discovered by the medical examination.

(2) The facility arranges periodic medical examination of all children at intervals recommended by the physician.

- (3) The facility ensures that children receive timely, competent medical care when they are ill and that they continue to receive necessary follow-up medical care.
- B. The residential facility arranges to secure any necessary dental care.
 - C. Each child more than three years of age has an annual dental examination.
 - D. A facility licensed pursuant to these regulations has written procedures, approved by a physician, pharmacist or nurse regarding how staff should administer over-the-counter medications to children in care and such procedures conform to 38 and its subsections.
 - E. Each facility has a first aid kit and first aid manuals readily accessible to the staff and secure from the children.
- (1) The first aid kit contains, at a minimum, band aids, gauze pads, adhesive tape, scissors, soap, and syrup of ipecac.
- (2) In case of accidental poisoning, the facility immediately contacts the poison control center and its directions are followed.
- (3) Syrup of ipecac is not given to any child without first contacting the poison control center.
- [1/1/99; 7.20.12.49 NMAC - Rn, 7 NMAC 20.12.49, 02/28/05]

7.20.12.50 NUTRITION: Each residential treatment service facility licensed pursuant to these regulations provides to the children a planned, nutritionally adequate diet.

- A. When the food service of the facility is not directed by a nutritionist or dietitian, regular, planned consultation with a nutritionist or dietitian is obtained by the facility. The nutritionist or dietitian approves the clients nutrition plan and reviews and revises when indicated.
 - B. A copy of the current week's menu is posted in the kitchen of the facility.
 - C. Posted menus are followed and any substitution is of equivalent nutritional value and is recorded on the posted menu.
 - D. The facility provides at least three meals a day served at regular times, as follows:
 - (1) normally not more than a 14-hour span between the evening meal and breakfast the following day;
 - (2) normally not less than 8 hours between breakfast and the evening meal of the same day;
 - (3) the same main dishes are not served within a week period; identical menus are not served on a one-week-cycle basis;
 - (4) time allowed for meals is sufficient to enable the children to eat at a leisurely rate, encourage socialization and to provide a pleasant mealtime experience.
- [1/1/99; 7.20.12.50 NMAC - Rn, 7 NMAC 20.12.50, 02/28/05]

7.20.12.51 FOOD MANAGEMENT: Each facility meets the requirements of all state and local regulations governing food service, posts inspection reports in a conspicuous place and maintains a file of any deficiencies noted in an inspection.

- A. Exception: Those facilities which have a written exemption from the environmental improvement division or recognized local authority.
- B. Each facility has a copy of the current applicable food service regulations as published by the environmental improvement division. Exception: Those facilities which have a written exemption from the environmental improvement division or recognized local authority.
- C. Dry and evaporated milk may be reconstituted only if used for cooking purposes. All milk for drinking is grade-A pasteurized and served directly from its original container or from a dispenser approved by the environmental improvement division.
- D. Potentially hazardous food such as meat, milk and custard are kept at 45 degrees F. or below. Hot food is kept at 140 degrees F. or above during preparation and service.
- E. Each refrigerator and freezer contains an accurate thermometer reading within 2 degrees F., located in the warmest part of the appliance in which food is stored. The temperature of the refrigerator is 45 degrees F. or below. The temperature for the freezer is 0 degrees or below.
- F. Refrigerators, freezers, cupboards and other food storage areas are kept clean and sanitary at all times.
- G. Drugs, biologicals, poisons, stimulants, detergents, and cleaning supplies are not kept in the same storage area used for storage of foods.

- H. Dishes and utensils are properly washed, sanitized, and stored in accordance with food service regulations.
 - I. All garbage and rubbish are stored in containers which are waterproof, easily cleaned, and have tight-fitting lids.
- [1/1/99; 7.20.12.51 NMAC - Rn, 7 NMAC 20.12.51, 02/28/05]

7.20.12.52 CHILDREN AND ADOLESCENT MENTAL HEALTH SERVICES: GENERAL BUILDING REQUIREMENTS FOR RESIDENTIAL TREATMENT SERVICES: The following standards apply to residential treatment services: Building requirements:

- A. Access to the disabled: All facilities licensed pursuant to these regulations are accessible to, and usable by, disabled employees, staff, visitors, and clients.
 - B. Prohibition of mobile homes: Trailers and mobile homes are not used for living or activity areas for children.
 - C. Design and selection of building(s) for the special needs of children: In the design or selection of a building, attention is given to the special needs of the children and staff. Conditions which are detrimental to health, safety, and welfare of the children are avoided.
 - D. Extent of a facility: All buildings on the premises providing services are considered part of the facility and meet all requirements of these regulations. Children living in any building on the premises are counted in the capacity of the facility. Where a part of the facility's services is contained in another facility, separation and access are maintained as described in current building and fire codes.
 - E. Additional requirements: A facility applying for licensure pursuant to these regulations may be subject to additional requirements not contained herein. The complexity of building and fire codes and other applicable standards of city, county, or municipal governments establishes such additional requirements. Applicable standards may be incorporated by the LCA in its licensing process.
- [1/1/99; 7.20.12.52 NMAC - Rn, 7 NMAC 20.12.52, 02/28/05]

7.20.12.53 MAINTENANCE OF BUILDING AND GROUNDS FOR RESIDENTIAL TREATMENT SERVICES: Facilities maintain the building(s) in good repair at all times. Such maintenance includes, but is not limited to, the following.

- A. All electrical, signaling, mechanical, water supply, heating, fire protection, and sewage disposal systems are maintained in a safe and functioning condition, including regular inspections of these systems.
 - B. All equipment used for client care is kept clean and in good repair.
 - C. All furniture and furnishings are kept clean and in good repair.
 - D. The grounds of the facility are maintained in a safe and sanitary condition at all times.
- [1/1/99; 7.20.12.53 NMAC - Rn, 7 NMAC 20.12.53, 02/28/05]

7.20.12.54 HOUSEKEEPING:

- A. The facility is kept free from offensive odors and accumulations of dirt, rubbish, dust, and safety hazards.
 - B. Children's rooms, examination rooms, meeting rooms, waiting rooms and other areas of daily usage are cleaned daily.
 - C. Floors and walls are constructed of a finish that can be easily cleaned. The floor polishes will provide a slip resistant finish.
 - D. Bathrooms, lavatories, and drinking fountains are cleaned daily and as often as necessary to maintain a clean and sanitary condition.
 - E. Deodorizers are not used to mask odors caused by unsanitary conditions or poor housekeeping practices.
 - F. Combustibles such as cleaning rags and compounds are kept in closed metal containers in areas providing adequate ventilation and away from clients rooms and common areas.
 - G. Poisonous or flammable substances are not stored in residential sleeping areas, food preparation areas, or food storage areas. All poisonous substances must be kept in a locked cabinet or other container inaccessible to the children and away from living and common areas.
 - H. Storage areas are kept free from accumulations of refuse, discarded equipment, furniture, paper, and the like.
- [1/1/99; 7.20.12.54 NMAC - Rn, 7 NMAC 20.12.54, 02/28/05]

7.20.12.55 WATER:

- A. A facility licensed pursuant to these regulations is provided with an adequate supply of water which is of a safe and sanitary quality suitable for domestic use.
 - B. If the water supply is not obtained from an approved public system, the private water system is inspected, tested, and approved by the New Mexico environment department prior to licensure. It is the facility's responsibility to ensure that subsequent periodic testing or inspection of such private water system is made at intervals prescribed by the New Mexico environment department or other recognized authority. The facility maintains copies of all inspection reports and certificates pertaining to its water supply.
 - C. Hot and cold running water are distributed at sufficient pressure to operate all fixtures and equipment during maximum demand periods.
 - D. Back flow preventors (vacuum breakers), are installed on hose bibbs, laboratory sinks, janitor's sinks, and on all other water fixtures to which hoses or tubing can be attached.
 - E. Water distribution systems are arranged to provide hot water at each hot water outlet at all times. Hot water provided to hand washing facilities does not exceed 120 degrees F.
- [1/1/99; 7.20.12.55 NMAC - Rn, 7 NMAC 20.12.55, 02/28/05]

7.20.12.56 SEWAGE AND WASTE DISPOSAL:

- A. All sewage and liquid wastes are disposed of into a municipal sewage system where such facilities are available.
 - B. Where a municipal sewage system is not available, the system used is inspected and approved by the New Mexico environment department or recognized local authority. The facility maintains copies of all inspection reports and certificates issued pertaining to its waste disposed system(s).
 - C. Where municipal or community garbage collection and disposal service are not available, the method of collection and disposal of solid wastes generated by the facility is inspected and approved by the New Mexico environment department or recognized local authority.
 - D. Infectious waste: Facilities licensed pursuant to these regulations which generate infectious waste ensure that the method of disposal of such wastes meets the requirements of the New Mexico environment department or recognized local authority.
 - E. All garbage and refuse receptacles are durable, have tight fitting-lids, are insect/rodent proof, washable, leakproof and constructed of materials which do not absorb liquids. Receptacles are kept clean.
- [1/1/99; 7.20.12.56 NMAC - Rn, 7 NMAC 20.12.56, 02/28/05]

7.20.12.57 FIRE SAFETY COMPLIANCE: All current applicable requirements of state and local codes for fire prevention and safety must be met by the facility. The facility maintains a copy of all applicable inspection reports and certifications.

[1/1/99; 7.20.12.57 NMAC - Rn, 7 NMAC 20.12.57, 02/28/05]

7.20.12.58 FIRE CLEARANCE AND INSPECTIONS:

- A. Each facility requests from the fire authority having jurisdiction an annual inspection of the facility. If the policy of the fire authority having jurisdiction does not provide for an annual inspection of the facility, the facility documents the date the request was made and to whom. If the fire authority does conduct annual inspections, a copy of the latest inspection is kept on file in the facility.
 - B. Written documentation from the state fire marshals office or fire authority having jurisdiction evidencing a facility's compliance with applicable fire prevention codes is submitted to the LCA prior to issuance of an initial license.
- [1/1/99; 7.20.12.58 NMAC - Rn, 7 NMAC 20.12.58, 02/28/05]

7.20.12.59 STAFF FIRE AND SAFETY TRAINING:

- A. All staff of the facility knows the location of, and is instructed in, proper use of fire extinguishers procedures to be observed in case of fire or other emergency. The facility requests the fire authority having jurisdiction to give periodic instruction in fire prevention and techniques of evaluation.
- B. Facility staff is instructed as part of their duties to constantly strive to detect and eliminate potential safety hazards, such as loose handrails, frayed electrical cords, faulty equipment, blocked exits or exit ways, and any other condition which could cause burns, falls, or other personal injury to the clients or staff.

C. Each child is, upon being accepted into the facility, given an orientation tour of the facility to include, but not be limited to, the location of the exits, fire extinguishers, and telephones, and is instructed in accordance with their abilities on actions to be taken in case of fire or other emergencies.

D. Fire and evacuation drills: The facility conducts a least one fire and evacuation drill each month.

(1) Logs are maintained by the facility showing the date, time, names of staff participating in the drill and outlining any problems noted in the conduct of the drill.

(2) Fire drills are held at different times of the day.

(3) In the conduct of fire drills, emphasis is placed upon orderly evacuation, under proper discipline, rather than upon speed.

[1/1/99; 7.20.12.59 NMAC - Rn, 7 NMAC 20.12.59, 02/28/05]

7.20.12.60 EVACUATION PLAN: Each facility has an evacuation plan conspicuously posted in each separate area of the building showing routes of evacuation in case of fire or other emergency.

[1/1/99; 7.20.12.60 NMAC - Rn, 7 NMAC 20.12.60, 02/28/05]

7.20.12.61 PROVISIONS FOR EMERGENCY CALLS:

A. An easily accessible telephone for summoning help in case of an emergency is available in the facility.

B. A list of emergency numbers, including, but not limited to, fire department, police department, ambulance services, and poison control center are prominently posted by each telephone.

[1/1/99; 7.20.12.61 NMAC - Rn, 7 NMAC 20.12.61, 02/28/05]

7.20.12.62 FIRE EXTINGUISHERS:

A. Fire extinguishers, as approved by the state fire marshal or fire prevention authority having jurisdiction, are located in the facility.

B. Fire extinguishers and other firefighting equipment are properly maintained as recommended by the manufacturer, state fire marshal or fire authority having jurisdiction.

C. All fire extinguishers are inspected annually and recharged as specified by the manufacturer, state fire marshal, or fire authority having jurisdiction. All fire extinguishers are tagged, noting the date of inspection.

[1/1/99; 7.20.12.62 NMAC - Rn, 7 NMAC 20.12.62, 02/28/05]

7.20.12.63 FIRE ALARM SYSTEM: A manually-operated, electrically monitored fire alarm system is installed in each facility as required by the national fire protection association 101 (Life Safety Code). Multiple-story facilities require manual alarm systems.

[1/1/99; 7.20.12.63 NMAC - Rn, 7 NMAC 20.12.63, 02/28/05]

7.20.12.64 FIRE DETECTION SYSTEM: The facility is equipped with smoke detectors as required by the NFPA 101 (Life Safety Code) and approved in writing by the fire authority having jurisdiction as to number, type and placement.

[1/1/99; 7.20.12.64 NMAC - Rn, 7 NMAC 20.12.64, 02/28/05]

7.20.12.65 CARPETS: Carpeting, if used in new facilities is of at least class II rating. Existing facilities, as they replace carpeting, replace it with carpet having a class II rating.

[1/1/99; 7.20.12.65 NMAC - Rn, 7 NMAC 20.12.65, 02/28/05]

7.20.12.66 SMOKING: Smoking, if permitted in a facility, is done only in areas designated by the facility and approved by the state fire marshal or fire authority having jurisdiction. Smoking is not allowed in a kitchen or food preparation area.

[1/1/99; 7.20.12.66 NMAC - Rn, 7 NMAC 20.12.66, 02/28/05]

7.20.12.67 LIGHTING AND LIGHTING FIXTURES: The facility meets the following requirements for lighting:

A. All areas of the facility including storerooms, stairways, hallways, and entrances are lighted sufficiently to make all parts of each area clearly visible.

B. Exits, exit-access ways, and other areas used by children and staff are illuminated.

C. All spaces occupied by people, machinery, or equipment within buildings, approaches to buildings, and parking lots are lighted.

D. Lighting is sufficient to make all parts of each area clearly visible.

E. All lighting fixtures are shielded.

[1/1/99; 7.20.12.67 NMAC - Rn, 7 NMAC 20.12.67, 02/28/05]

7.20.12.68 EMERGENCY LIGHTING:

A. A facility provides emergency lighting which activates automatically upon disruption of electrical service.

B. The emergency lighting is sufficient to illuminate paths of egress and exits of the facility.

[1/1/99; 7.20.12.68 NMAC - Rn, 7 NMAC 20.12.68, 02/28/05]

7.20.12.69 EXITS:

A. Each facility and each floor of a facility has exits as required/permitted by the national fire protection association 101 (Life Safety Code).

B. Each facility has at least two approved exits, remote from each other.

C. Each exit is clearly marked with signs having letters at least six inches high whose principal strokes are at least 3/4 of an inch wide. Exit signs are visible at all times.

D. Exits, exit paths, or means of egress do not pass through hazardous areas, storerooms, closets, bedrooms, or spaces subject to locking.

E. Sliding doors are not acceptable as a required exit.

F. When illuminated exit signs are present, they are maintained in operable condition.

G. Exit ways are kept free from obstructions at all times.

H. Exit doors are at least 36" wide.

[1/1/99; 7.20.12.69 NMAC - Rn, 7 NMAC 20.12.69, 02/28/05]

7.20.12.70 ELECTRICAL STANDARDS:

A. All electrical installation and equipment must comply with all current state and local codes.

B. Circuit breakers or fused switches that provide electrical disconnection and overcurrent protection must be:

- (1) enclosed or guarded to provide a dead front assembly;
- (2) readily accessible for use and maintenance;
- (3) set apart from traffic lanes;
- (4) located in a dry, ventilated space, free of corrosive fumes or gases;
- (5) able to operate properly in all temperature conditions;
- (6) located on the same floor and in the same facility area as the circuits they serve;
- (7) marked showing the area each circuit breaker or fused switch services.

C. The use of jumpers or devices to bypass circuit breakers or fused switches is prohibited.

[1/1/99; 7.20.12.70 NMAC - Rn, 7 NMAC 20.12.70, 02/28/05]

7.20.12.71 ELECTRICAL CORDS AND ELECTRICAL RECEPTACLES:

A. Electrical and extension cords:

- (1) Electrical cords and extension cords must be U/L approved.
- (2) Electrical cords and extension cords must be replaced as soon as they show wear.
- (3) Under no circumstances are extension cords used as a general wiring method.
- (4) Extension cords are plugged into an electrical receptacle within the room where used and are not connected in one room and extended to another room.
- (5) Extension cords must not be used in series.

B. Electrical receptacles:

(1) Duplex grounded type electrical receptacles (convenience outlets), are installed in all areas in sufficient quantities for tasks to be performed as needed.

(2) The use of multiple sockets (gang plugs), in electrical receptacles is strictly prohibited.

(3) The main electrical service line has a readily available disconnect switch. All staff personnel of the facility know the location of the electrical disconnect switch and how to operate it in case of an emergency.

(4) Facilities who care for children less than six years of age are either provided with safety electrical outlets or have all electrical outlets not in use provided with protective covers.
[1/1/99; 7.20.12.71 NMAC - Rn, 7 NMAC 20.12.71, 02/28/05]

7.20.12.72 HEATING, VENTILATION, AND AIR-CONDITIONING:

- A. Heating, air-conditioning, piping, boilers, and ventilation equipment are furnished, installed and maintained to meet all requirements of current state and local mechanical, electrical, and construction codes.
- B. The heating method used by the facility has a minimum indoor winter design capacity of 70 degrees F. with controls provided for adjusting the temperature as appropriate for client and staff comfort.
- C. The use of unvented heaters, open flame heaters or portable heaters is prohibited.
- D. A supply of outside air sufficient to assure proper combustion must be provided in all spaces where fuel fired boilers, furnaces, or heaters are located to assure proper combustion.
- E. All fuel fired boilers, furnaces, or heaters are connected to an approved venting system to take the products of combustion directly to the outside air.
- F. Each facility is adequately ventilated at all times to provide fresh air and the control of unpleasant odors by either mechanical or natural means.
- G. All gas-fired heating equipment is provided with a 100 percent automatic cutoff control valve that operates in the event of pilot failure.
- H. The facility is provided with a system for maintaining clients and staffs comfort during periods of hot weather.
- I. All boilers, furnaces or heater rooms are protected from other parts of the building by construction having a fire resistance rating of not less than one hour. The doors are self-closing with a three- quarters hour fire resistance.
- J. All central ventilation and air condition systems are provided filters having efficiencies greater than 25 percent.
- K. All gas-burning heating and cooking equipment are connected to an approved venting system to take the products of combustion directly to the outside air.
- L. All openings to the outer air used for ventilation are screened with screening material of not less than 16 meshes per lineal inch.
- M. Screen doors are equipped with self-closing devices.

[1/1/99; 7.20.12.72 NMAC - Rn, 7 NMAC 20.12.72, 02/28/05]

7.20.12.73 WATER HEATERS:

- A. Fuel-fired hot water heaters are enclosed and separated from other parts of the building by construction as required by current state and local building codes. Any inspection report or certificate is maintained by the facility.
- B. All water heaters are equipped with a pressure relief valve (pop-off-valve) vented to the outside or a drain in the building.

[1/1/99; 7.20.12.73 NMAC - Rn, 7 NMAC 20.12.73, 02/28/05]

7.20.12.74 TOILETS, LAVATORIES AND BATHING FACILITIES:

- A. All fixture and plumbing are installed in accordance with current state and local plumbing codes.
- B. All toilets are enclosed and vented.
- C. All toilet rooms are provided with a lavatory for hand washing.
- D. All toilet rooms are kept supplied with toilet paper.
- E. All lavatories for hand washing are kept supplied with disposable towels for hand drying or provided with a mechanical blower. The use of a common towel is prohibited.
- F. The location, type and minimum number of toilets, lavatories and bathing facilities are as follows.
 - (1) Toilets and sinks for children in a residential facility are provided in a ratio of at least one toilet and one sink for every six children in care.
 - (2) If a residential treatment facility provides service to both sexes, separate facilities are provided for each sex in the same ratio as stated in Paragraph (1) of Subsection F of 7.20.12.74 NMAC of these regulations.
 - (3) Showers or tubs in a residential facility are provided for the children's use in the same ratio as stated in Paragraphs (1) and (2) of Subsection F of 7.20.12.74 NMAC.
- G. A combination of a tub and shower is permitted.

- H. Residential facilities for developmentally disabled children have grab bars in tubs and showers.
 - I. Tubs or showers have a slip resistant surface.
 - J. Toilet room doors in residential treatment services facilities serving developmentally disabled children swing out.
 - K. If a facility has live-in staff, a separate toilet, hand washing, and bathing facilities for staff are provided and are not counted in the ratios in Paragraphs (1) or (2) of Subsection F of 7.20.12.74 NMAC.
 - L. Toilet, hand washing, and bathing facilities are readily available to the children. No passage through a child's room by another child to reach a toilet, bath, or hand washing facility is permitted.
 - M. New facilities have a minimum of one toilet and bathing facility which meet the requirements for the disabled.
- [1/1/99; 7.20.12.74 NMAC - Rn, 7 NMAC 20.12.74, 02/28/05]

7.20.12.75 CORRIDORS:

- A. Corridors in each facility have a minimum width of 36 inches. Corridors in newly constructed facilities have a minimum width of 44 inches.
 - B. Corridors have a clear ceiling height of not less than 7 feet measured to the lowest projection from the ceiling.
 - C. Corridors remain clear and free of obstructions at all times.
 - D. In facilities contained within existing commercial or residential buildings, less stringent corridor widths are allowed if not in conflict with the building or fire codes and approved by the LCA prior to occupying the facility.
- [1/1/99; 7.20.12.75 NMAC - Rn, 7 NMAC 20.12.75, 02/28/05]

7.20.12.76 DOORS:

- A. All exit doors must have a minimum width of 36 inches.
 - B. All sleeping room doors are at least one and three quarter inches bonded solid core, with a minimum width of 30 inches.
 - C. All doors to toilet and bathing facilities have a minimum width of 24 inches.
 - D. Locks on doors to toilets are of such type that the lock can be released from the outside.
 - E. Exit doors leading to the outside of a facility with a capacity of ten or more children open outward.
 - F. Exit doors leading to the outside of a facility are provided with a night latch, dead bolt or security chain, provided such devices open from the inside without the use of a key or tool and are mounted at a height not to exceed 48 inches above the finished floor.
 - G. Sleeping room doors for non-mobile children are at least one and three quarter inches bonded solid core, with a minimum width of 44 inches.
 - H. Each sleeping room housing non-mobile children must have a 44-inch exit door directly to the outside.
- [1/1/99; 7.20.12.76 NMAC - Rn, 7 NMAC 20.12.76, 02/28/05]

7.20.12.77 MINIMUM ROOM DIMENSIONS:

- A. All habitable rooms in a facility must have a ceiling height of not less than seven feet, six inches. Kitchens, halls, bathrooms and toilet compartments must have a ceiling height of not less than seven feet.
 - B. All habitable rooms other than a kitchen are not less than seven feet in any dimension.
 - C. Any room with a sloped ceiling is subject to review and approval or disapproval by the LCA, based upon Uniform Building Code computation of minimum area.
- [1/1/99; 7.20.12.77 NMAC - Rn, 7 NMAC 20.12.77, 02/28/05]

7.20.12.78 CHILDREN'S ROOMS:

- A. Each child's room is an outside room.
- B. There is no through traffic in the children's rooms.
- C. Single rooms have at least 80 square feet of floor area. Closet and locker areas are not counted as part of the floor area.
- D. Not more than four children more than two years of age occupy a designated bedroom space.
- E. Children's rooms have beds spaced at least three feet apart.

F. Residential treatment services facilities for developmentally disabled children which provide care and services to non-mobile children have at least 100 square feet of floor area for each non-mobile resident.

G. Rooms having more than one child must have at least 60 square feet for each bed or if double bunks are used at least 90 square feet of floor area for each bunk. Closet and locker area must not be counted as part of the available follow space.

[1/1/99; 7.20.12.78 NMAC - Rn, 7 NMAC 20.12.78, 02/28/05]

7.20.12.79 WINDOWS:

A. Children's sleeping rooms and activity rooms have window area of at least one-tenth the floor area with a minimum of at least 10 square feet.

B. Sleeping rooms provide at least one window for egress or rescue with a minimum net clear opening of 5.7 square feet. The minimum net clear opening for height dimensions is 24 inches. The minimum net clear opening width dimension is 20 inches.

C. Egress and rescue windows have a finished sill height of not more than forty-four inches above the floor.

D. Exception: If the sleeping room has a door directly to the outside, an egress/rescue window is not required.

E. Bars, grills, and grates or similar devices may be installed on emergency escape or rescue windows or doors only if equipped with release mechanisms which can be opened from the inside without the use of a key, knowledge or effort.

[1/1/99; 7.20.12.79 NMAC - Rn, 7 NMAC 20.12.79, 02/28/05]

7.20.12.80 ADMINISTRATION AND PUBLIC AREAS:

A. Entrances are able to accommodate wheelchairs.

B. Public areas include:

- (1) conveniently accessible wheelchair storage; and
- (2) reception and information counter or desk; and
- (3) conveniently accessible public toilets; and
- (4) conveniently accessible drinking fountains.

C. Interview space(s) for private interviews related to social services, obtaining medical and/or psychological information, etc., are provided.

D. General or individual office(s) for business transactions, records, administrative, and professional staff are provided.

E. Clerical space or rooms for typing, clerical work, and filing, separated from public areas for confidentiality, are provided.

F. Special storage for staff personal effects with locking drawers or cabinets (may be individual desks or cabinets), are provided. Such storage is near individual work stations and is staff controlled.

G. General storage facilities for supplies and equipment are provided.

H. When indicated, the nurses station(s) has a work counter, communication system, space for supplies, and provisions for charting.

I. A drug distribution station, is provided and includes a work counter, sink, refrigerator, and locked storage for biologicals and drugs, and may be part of the nurses station.

[1/1/99; 7.20.12.80 NMAC - Rn, 7 NMAC 20.12.80, 02/28/05]

7.20.12.81 FLOORS AND WALLS:

A. Floor material is readily cleanable and wear resistant.

B. In all areas subject to wet cleaning, floor materials are not physically degradable by liquid germicidal or cleaning solution.

C. Floors subject to traffic while wet have a slip resistant surface.

D. Wall finishes are washable and in the proximity of plumbing fixtures, are smooth and moisture resistant.

E. Wall bases in areas subject to wet cleaning are covered with flooring and baseboards tightly sealed within the wall, and constructed without voids.

F. Floor and wall areas penetrated by pipes, ducts, and conduits are tightly sealed to minimize entry of rodents and insects. Joints of structural elements are similarly sealed.

G. Threshold and expansion joint covers are flush with the floor surface to facilitate use of wheelchairs and carts.

[1/1/99; 7.20.12.81 NMAC - Rn, 7 NMAC 20.12.81, 02/28/05]

7.20.12.82 ACCESS REQUIREMENTS FOR DISABLED IN NEW FACILITIES:

A. Accessibility to the disabled is provided in all new facilities and will include the following:

- (1) main entry into the facility is level or has a ramp to allow for wheelchair access;
- (2) building layout allows for access to main living area and dining area;
- (3) access to at least one bedroom is required to have a door clearance of 32 inches; the toilet/bathing unit also provides a 60-inch diameter clear space (turning radius);
- (4) if ramps are provided to the building, the slope of each ramp is at least a 12-inch horizontal run for each inch of vertical rise;
- (5) ramps exceeding a six-inch rise are provided with handrails.

B. Requirements contained herein are minimum and additional disability requirements apply depending on the size and complexity of the facility.

[1/1/99; 7.20.12.82 NMAC - Rn, 7 NMAC 20.12.82, 02/28/05]

7.20.12.83 SPECIAL REQUIREMENTS FOR SECLUSION OR SECURITY ROOMS: Any facility licensed pursuant to these regulations and that uses a seclusion or security room in its program complies with all of the following:

- A. the room has no less than 80 square feet of floor area;
- B. the door is of substantial construction either one and three-quarter inches, bonded solid core or metal able to withstand unusual stress;
- C. the door is at least 32 inches wide, preferably 36 inches;
- D. the door swings outward to prevent children from barricading themselves in the room;
- E. the door has a fixed wired glass vision panel not to exceed 1,296 square inches, and mounted in steel or other approved metal frame;
- F. a dual lock system that is simple to operate is on the door; it has a quickly operated throw bolt and key lock;
- G. the floor is of substantial construction with a smooth surface so that it presents no danger in terms of materials that peel, splinter, or cause burns;
- H. walls are of high impact resistance with nothing protruding from the walls that would allow for climbing by children;
- I. the ceiling is of monolithic construction and unreachable to children;
- J. light fixtures are security rated and recessed so children cannot break the lens, bulbs, etc.;
- K. windows in the room have security-rated screens with locks that cannot be picked;
- L. there is nothing else in the room, including electrical outlets, switches, holes, hardware, or places to hook things; all heating and air-conditioning registers are out of reach; there are no sharp edges in the room such as window sills, baseboards, or wainscots;
- M. rooms are approved in writing from the state fire marshal or fire authority having jurisdiction; these records are maintained by the facility;
- N. the observation room is convenient to a staff's station to permit continuous close observation of clients;
- O. a toilet room with a lavatory is immediately accessible.

[1/1/99; 7.20.12.83 NMAC - Rn, 7 NMAC 20.12.83, 02/28/05]

HISTORY OF 7.20.12 NMAC: [RESERVED]