

LICENSING REQUIREMENTS

FOR

RESIDENTIAL
CHILD CARE FACILITIES



OKLAHOMA DEPARTMENT OF HUMAN SERVICES
Oklahoma Child Care Services



Effective Date: 7/01/10

FOREWORD

Licensing requirements govern child care facilities in the State of Oklahoma. These rules are minimum requirements for the care and protection of children in care outside their own homes. They were developed by individuals from various professions with expertise in child care, including private providers; the Child Care Advisory Committee; and from input solicited from other providers and the public. The requirements were approved by the Commission for Human Services and the Governor of the State of Oklahoma pursuant to the Oklahoma Administrative Procedures Act.

It is the Oklahoma Department of Human Services' (OKDHS) intent that licensing requirements are clear, reasonable, fair and enforceable. In the interest of serving the public, comments are welcomed and will be considered for future revisions or development of new requirements. Please complete the form below and send it to:

Oklahoma Department of Human Services
Oklahoma Child Care Services
P.O. Box 25352
Oklahoma City, OK 73125

COMMENTS REGARDING LICENSING REQUIREMENTS

Licensing Requirements for: _____

Reference: *(Please give the cite and topic of the specific requirement to which you are referring, such as Section 2, re. Definitions.)*

- Section _____ re: _____
- Section _____ re: _____

Recommendation:

Because:

Your Name

Date

*Return address: Oklahoma Department of Human Services
Oklahoma Child Care Services
P.O. Box 25352
Oklahoma City, OK 73125*

**REQUIREMENTS FOR RESIDENTIAL FACILITIES
(340:110-5-145 THROUGH 340:110-5-169)**

Section 145. Purpose and policy of the law	1
Section 146. Definitions	1
Section 147. License	3
Section 148. Technical assistance	3
Section 149. Complaint investigation	4
Section 150. Denial or revocation of license	4
Section 151. Public records	4
Section 152. Organization and administration	4
(a) Statement of intent	4
(b) Organizational structure	4
(c) Governing and advisory board	5
(d) Administrative policy.....	6
(e) Records and reports.....	6
(f) Notifications.....	6
Section 153. Finances	7
(a) Evidence of sufficient funds.....	7
(b) Fiscal responsibility	7
(c) Accountability	7
(d) Insurance	7
Section 153.1. Personnel	7
(a) Personnel policy	7
(b) Staff and responsibilities	7
(c) Volunteers	8
(d) Executive director and program director qualifications	8
(e) Child care and supervisory staff qualifications	9
(f) Social services staff qualifications	9
(g) Employment requirements	9
(h) Criminal history investigations	10
(i) Prohibitions.....	11
(j) Request for waiver.....	11
(k) Restrictions.....	11
(l) Orientation	11
(m) Staff training.....	12
(n) Documentation	13
(o) Personnel records	13

Section 153.2. Supervision of residents.....	14
Section 154. Social services	14
(a) Admission.....	14
(b) Service planning.....	15
(c) Services.....	16
(d) Discharge procedures	16
(e) Resident's records.....	16
Section 154.1. Program.....	17
(a) Rights of residents.....	17
(b) Visitation.....	18
(c) Education	18
(d) Care of children birth to five years of age.....	19
Section 154.2. Behavior management.....	19
(a) Behavior management policy	19
(b) Prohibitions.....	19
(c) Separation	19
(d) Physical restraint	19
Section 154.3. Health and medical services	19
(a) Medical plan	19
(b) Physical examination.....	19
(c) Medical care	20
(d) Immunizations	20
(e) Medication	20
(f) First aid supplies	20
Section 154.4. Food and nutrition.....	20
(a) Menu planning.....	20
(b) Frequency and quality of meals.....	20
(c) Special diets	20
(d) Meals.....	21
Section 154.5. Transportation	21
(a) Vehicle requirements.....	21
(b) Driver requirements.....	21
(c) Safety practices	21
(d) Transportation records	22
(e) Insurance	22
(f) Emergency planning.....	22
Section 157. Physical facility and equipment	22
(a) New construction.....	22
(b) Square footage.....	23
(c) Basements	23

(d) Mobile homes	23
(e) Storage of personal belongings	23
(f) Staff sleeping quarters	23
(g) Staff space	23
(h) Bathrooms	23
(i) Diaper changing	23
(j) Sanitation and safety	23
(k) Furnishings and decor	24
(l) Telephones	24
(m) Health regulations	24
(n) Fire safety	24
(o) Environmental quality	24
Section 163. Buildings, utilities, and grounds regulations.....	24
Section 164. Food service requirements.....	27
Section 165. Construction and fire safety	32
Section 165.1. Safety and emergency preparedness requirements	33
Section 166. Requirements for regimented residential programs	35
(a) Regimented residential programs.....	35
(b) Requirements	35
(c) Administrative policy	35
(d) Executive director qualifications	35
(e) Supervision of residents	35
(f) Physical examination.....	35
(g) Physical facility	35
(h) Staff sleeping quarters	35
(i) Toilets, sinks, and bathtubs or showers.....	36
Section 167. Requirements for children’s shelters	37
(a) Children’s shelter.....	37
(b) Requirements	37
(c) Tuberculin test.....	37
(d) Supervision of residents	37
(e) Admission.....	37
(f) Service plan	38
(g) Physical facility	38
Section 168. Requirements for residential treatment facilities	39
(a) Residential treatment facilities.....	39
(b) Requirements	39
(c) Personnel	39
(d) Supervision of residents	39
(e) Admission.....	39

(f) Service planning.....	39
(g) Portable pools	39
(h) Discharge procedures	39
(i) Visitation.....	40
(j) Behavior management	40
Section 169. Requirements for secure care facilities	42
(a) Secure care facility	42
(b) Requirements	42
(c) Supervision of residents	42
(d) Searches and contraband	42
(e) Door security	42
(f) Key control	42
(g) Weapons	42
(h) Behavior management	43
(i) Emergency numbers	44
SUPPLEMENT I Oklahoma Child Care Facilities Licensing Act.....	45
SUPPLEMENT II Minimum Quantities For Food Based Menus	61
INDEX	64

PART 9. REQUIREMENTS FOR RESIDENTIAL CHILD CARE FACILITIES

Section 145. Purpose and policy of the law

It is the declared purpose and policy of the Oklahoma Child Care Facilities Licensing Act [10 O.S. § 401 through 410] to ensure maintenance of minimum standards for the care and protection of children away from their own homes, to encourage and assist the child care facility to attain maximum standards, and to work for the development of sufficient and adequate services for child care.

Section 146. Definitions

The following words and terms, when used in this Part, have the following meanings, unless the context clearly indicates otherwise:

"Advisory board" means the entity that offers advice and counsel on the operation of a facility.

"Basement" means an area of a building or structure having one-half or more of its clear height below grade level.

"Behavior management" means guidance that provides a learning experience for the child, which contributes to developing the capacity for self-control, self-direction, and the understanding of behavioral consequences.

"Chemical restraint" means medication prescribed by a health professional used to control behavior or to restrict the freedom of movement and is not a standard treatment for the child's medical or psychiatric condition.

"Child" means any person who has not attained the age of 18.

"Child Care Restricted Registry" or "Restricted Registry" or "Joshua's List" means a registry for registrants who are prohibited from being licensed, working or residing in child care facilities as defined in Section 405.3 of Title 10 of Oklahoma Statutes.

"Child care staff" means staff, including part-time, on-call, and substitute staff, who provide direct care and supervision of residents. To be counted as required child care staff, workers must be engaged in providing care and meet the minimum qualifications for child care staff.

"Children's services" means an educational facility, child welfare agency, child-serving institution, child-placing agency, foster family home, hospital, or mental health treatment facility that serves children.

"Children's shelter" means a non-secure public or private residential program that provides temporary care and supervision for children.

"Contracted personnel" means persons who perform services for the facility who do not have an employee relationship with the facility.

"Custodian" means the adult or agency legally responsible for the child.

"Department" means Oklahoma Department of Human Services (OKDHS).

"Food" means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption.

"Governing board" means the entity with ultimate responsibility and authority for the overall operation of a facility.

"Grievance process" means an identified procedure followed when a parent, custodian, child, or anyone acting in the child's behalf, wishes to document dissatisfaction regarding the operation of the facility.

"Health professional" means a licensed physician, nurse practitioner, or physician's assistant, as defined by the appropriate state licensing board.

"Interstate Compact on the Placement of Children (ICPC)" means the process mandated by state statute by which children are placed outside of their state of residence. Procedures are carried out by OKDHS Children and Family Services Division.

"Licensed mental health professional" means a person possessing the training, qualifications, and professional recognition in a mental health-related field and who has been issued a license by the appropriate state board.

"Licensed social worker" means a social worker who has been issued a license by the State Board of Licensed Social Workers.

"Licensing requirements for residential child care facilities" means the regulations contained in this Part that constitute the minimum requirements for residential facilities.

"Mechanical restraint" means a device that restricts the movement or function of a child or portion of a child's body.

"Non-registrant" means an individual that is not recorded on the Child Care Restricted Registry.

"Nonprofit facility" means an operating facility that does not make a profit.

"On-call or substitute staff" means staff available to work during the absence of regular part-time or full-time staff.

"Organizational structure" means the legal basis or ownership of the facility.

"OSDH" means Oklahoma State Department of Health.

"Physical restraint" means using the body to restrict the movement or function of a child or portion of a child's body.

"Potentially hazardous foods" means any food that contains milk or milk products, eggs, meat, poultry, fish, shellfish, crustacean, or other ingredients in a form capable of supporting rapid and progressive growth of harmful microorganisms.

"Privately operated facility" means a facility owned and operated by an individual, partnership, corporation, or association, which may be operated on a profit or nonprofit basis.

"Proprietary facility" means a facility that operates on a for-profit basis.

"Psychotropic medications" means medications with well-demonstrated efficacy in the treatment of mental disorders through the modification of behavior, mood, and emotions.

"Publicly operated facility" means a facility operated by a governmental entity.

"Qualified Substance Abuse Professional (QSAP)" means someone who meets the criteria established by the Department of Mental Health and Substance Abuse Services.

"Regimented residential program" means a military-style training program; residents are subject to a controlled and regimented environment that affirms dignity of self and respect for others and includes physical training and discipline.

"Registrant" means an individual that is recorded on the Child Care Restricted

Registry.

"Residential child care facility" means a 24-hour residential facility where children live together with, or are supervised by, adults other than their parents or relatives.

"Residential treatment facility" means a facility that cares for children under 24-hour medical care who have emotional, psychological, or mental disorders.

"Seclusion" means the involuntary confinement of a child in a room or area where the child is physically prevented from leaving.

"Secure care facility" means a facility that cares for and supervises adjudicated children in a building in which entering and exiting is prohibited through the use of internal or external locks or through secure fencing around the perimeter.

"Separation" means removing a child from the group or group activity as a method of behavior management.

"Serious incident" means any non-routine occurrence that has an impact on the care, supervision, or treatment of a child or children.

"Service plan" means a comprehensive individualized program of action based on the child's needs.

"Social services" means services, which may include, but are not limited to, admission assessments, placement services, counseling, casework services to residents and their families, service planning, and discharge planning.

"Social services staff" means facility employees who provide social services.

"Staff member" means any person employed by or working for or with a residential child care facility on a regularly scheduled basis. This includes full-time, part-time, on-call and substitute staff, whether paid or unpaid.

"Supervision of residents" means overseeing and guiding a child or group of children including awareness of and responsibility for the ongoing activity of each child.

"Support staff" means clerical staff, cooks, building custodians, and other personnel who provide support services to the facility.

"Volunteer" means a person who, of his or her own free will, enters into an agreement with a facility to provide services without monetary compensation.

Section 147. License

An application for a license is made on forms provided by OKDHS and in the manner prescribed. A license to operate a residential child care facility is granted on the basis that the facility meets minimum requirements. Children are not accepted into care until authorization is obtained from OKDHS. The license is not transferable. The license is posted prominently in the facility. If the facility changes ownership or location, a new license is obtained. Pursuant to the Oklahoma Child Care Facilities Licensing Act [10 O.S. § 401 et seq.], persons identified as a registrant on the Child Care Restricted Registry are prohibited from:

- (1) licensure as a child care facility; and/or
- (2) employment in a child care facility.

Section 148. Technical assistance

In addition to monitoring compliance with requirements, licensing representatives offer technical assistance and consultation. An applicant or licensee may at any time request help with questions about the requirements or facility compliance.

Section 149. Complaint investigation

Upon receipt of a complaint that a facility is in noncompliance with requirements, the licensing representative notifies the administrator of the facility and conducts a thorough investigation. The name of the complainant is kept confidential. The administrator of the facility and the chair of the governing board are advised of the outcome of the investigation. Allegations of child abuse, neglect, or mistreatment are investigated by the Office of Client Advocacy or its designee.

Section 150. Denial or revocation of license

When a facility is unable or unwilling to comply with requirements or has failed to adequately protect the health and safety of children, OKDHS can deny the application or revoke the license. The applicant or licensee receives 30 days notice in writing of the decision and the grounds for such proposed action. The applicant or licensee may protest the decision in writing to the Commission for Human Services within 30 days of receipt of the notice. An administrative hearing will be held at which an opportunity is given to the applicant or licensee to present testimony and confront witnesses. If the decision from the administrative hearing is to uphold the recommendation of OKDHS the applicant or licensee may appeal the decision to the district court of the county where the facility is maintained within ten days. In the event the applicant or licensee does not appeal the decision, the facility must cease operation on the effective date of the action. The responsible entity may not make application for a new child care facility license within Oklahoma for five years following notification to the responsible entity of the license revocation or denial and during the appeal process.

Section 151. Public records

Files of residential child care facilities maintained by OKDHS are public records and are open for public inspection. [Oklahoma Public Records Act, 51 O.S. § 24A et seq.] Information obtained by OKDHS from any applicant or licensee regarding children, their parents, or other relatives is deemed confidential and privileged communication. The names of any complainants and information regarding a child abuse report or investigation is kept confidential.

Section 152. Organization and administration

(a) **Statement of intent.** The purpose or function of the residential child care facility is clearly defined in a statement filed with OKDHS. The statement includes the:

- (1) program philosophy;
- (2) program goals and objectives;
- (3) ages and characteristics of children accepted for care;
- (4) geographical area served; and
- (5) types of services provided.

(b) **Organizational structure.** The legal basis or ownership of the residential child care facility is fully documented and submitted to OKDHS.

- (1) **Publicly operated facility.** Documentation identifies the statutory basis of the facility and the administrative framework of the governmental entity that operates the facility.

- (2) **Privately operated facility.** A privately operated facility submits:
- (A) the charter, partnership agreement, constitution, articles of incorporation, or resolution authorizing the facility's operation, as applicable;
 - (B) names, titles, addresses, and telephone numbers for:
 - (i) association members or corporate officers for a nonprofit facility; and
 - (ii) owners, partners, or corporate officers for a proprietary facility.

(3) **Changes in ownership and facility name.** OKDHS is notified of any changes in the legal basis for operation, ownership, or name of the facility at least 30 days prior to the changes.

(c) **Governing and advisory board.** A private, nonprofit facility establishes a governing board and may also have an advisory board.

(1) **Meetings.** The governing board meets at least twice a year and maintains accurate minutes of each meeting.

(2) **Responsibility of the governing board.** The governing board maintains ultimate responsibility for governing but, having selected and employed an executive director, delegates to the executive director responsibility for administration of the facility.

(A) The board assumes joint responsibility with the executive director for general program and policy, funding, and compliance with minimum requirements.

(B) The responsibilities and relationship between the board and the executive director are defined in the constitution and bylaws and submitted to the OKDHS.

(3) **Governing board members.** A current list of names, titles, addresses, and telephone numbers of the governing board members is submitted to OKDHS.

(4) **Board composition.** The governing board represents the diversity of the community served.

(A) The board is comprised of a minimum of three members.

(B) A majority of the members of the board reside in Oklahoma. Multi-state operations, however, may have a governing board outside Oklahoma if they establish local advisory boards that meet the requirements in paragraph (5) of this subsection.

(C) Facility staff members cannot comprise a majority of the voting members of the governing board for that facility.

(D) Board members receive an orientation to board responsibilities upon appointment.

(5) **Advisory board.** A private, proprietary facility without a governing board that meets the requirements in Section 152(c)(1) - (4) establishes an advisory board.

(A) The advisory board meets at least twice a year.

(B) The advisory board provides advice and counsel to the facility on the policies and operation of the facility, reflects local concerns, and represents the program to the community.

(C) A current list of names, addresses, and telephone numbers of the advisory board members is submitted to OKDHS.

(D) Facility staff members cannot comprise a majority of the voting members of the advisory board for that facility.

(E) A majority of the members of the advisory board reside in Oklahoma.

(d) **Administrative policy.** Policy is clearly written, current, and available for residents, parents or custodians, staff, and licensing staff to review. Policy is reviewed annually by the governing board. Policy includes, but is not limited to, areas governing:

- (1) admission and discharge;
- (2) personnel;
- (3) volunteers;
- (4) programs;
- (5) grievance procedures as approved by OKDHS Office of Client Advocacy;
- (6) behavior management;
- (7) mandatory reporting of child abuse;
- (8) suicide awareness and protocol;
- (9) medical services;
- (10) administering and disposing of medication;
- (11) confidentiality of records;
- (12) a child absent without permission; and
- (13) emergency procedures.

(e) **Records and reports.** The records and reports maintained at the facility and available for licensing staff to review are:

- (1) children's records;
- (2) personnel records;
- (3) criminal history investigation records;
- (4) orientation and training hour records;
- (5) menus of food served to residents;
- (6) fire and tornado drill records;
- (7) schedules of planned recreational, leisure, or physical exercise activities;
- (8) visitation records; and
- (9) transportation records.

(f) **Notifications.** The facility complies with the notification requirements as outlined in this subsection.

- (1) The facility notifies Licensing on the next working day in the event of:
 - (A) temporary or permanent closing of the facility;
 - (B) a change in the executive director;
 - (C) changes to liability insurance coverage;
 - (D) damage to the premises of the facility caused by fire, accident, or the elements that seriously affects the provision of services;
 - (E) legal action against a facility or staff member that involves a resident or the operation of the facility;
 - (F) any serious resident injury requiring emergency medical treatment by a health professional; or
 - (G) the death of a resident.
- (2) The facility immediately reports any suspicion of child abuse or neglect to the OKDHS Office of Client Advocacy or the OKDHS 24-hour statewide Child Abuse Hotline 1-800-522-3511. Any staff who has reason to believe that a child has been abused or neglected is responsible to ensure that a report has been made in accordance with Sections 7102 and 7103 of Title 10 of Oklahoma Statute. Failure to report is a misdemeanor offense and upon conviction is punishable by law.

(3) If a resident is absent without permission, the resident's parents or custodian are notified immediately.

Section 153. Finances

(a) **Evidence of sufficient funds.** The facility demonstrates evidence of sufficient funds.

(1) A new facility submits a letter to OKDHS from a certified public accountant that documents the procedures in place for operating the fiscal management system so that the facility's financial statements can be audited at the end of the first fiscal year of operation.

(2) A new facility submits a budget for the first year of operation to OKDHS. The facility has predictable funds for the first year of operation, as well as reserve funds or documentation of reserve funds.

(3) The facility maintains a written plan of financing that projects sufficient funds to carry out their defined purposes and provide proper care for children.

(b) **Fiscal responsibility.** The facility demonstrates fiscal responsibility.

(1) The executive director maintains complete financial records of all income and disbursements.

(2) If cash funds are received, the executive director requires all persons responsible for handling cash funds to be bonded.

(c) **Accountability.** The facility demonstrates financial accountability.

(1) All financial records pertaining to the facility are audited annually by a certified public accountant, who is not a staff or board member of the facility, or audited in accordance with the governmental funding source.

(2) A copy of the auditor's letter, including a statement verifying that the facility's financial records accurately reflect its financial operations according to generally accepted accounting principles, is submitted to licensing.

(d) **Insurance.** The facility maintains insurance. Insurance policies are available for licensing staff to review.

(1) The facility is covered by property casualty insurance, unless operated by a government entity that is self-insured in accordance with state law.

(2) The facility is covered by general liability insurance, unless the facility is exempt by state law. Coverage is at least \$200,000 for each occurrence of negligence. Form 07LC092E, Insurance Verification, that includes a certificate of insurance obtained from the insurance agent is completed annually, maintained at the facility, and made available to licensing.

(3) Any vehicle used to transport children is covered by liability and medical insurance.

Section 153.1. Personnel

(a) **Personnel policy.** Personnel policy includes, but is not limited to, defining staff, essential job functions, qualifications, and lines of authority.

(b) **Staff and responsibilities.** The facility recruits staff that have specialized skills, knowledge, and the cultural understanding and competencies necessary for quality residential care services.

(1) **Executive director.** The facility employs an executive director, superintendent, or administrator. In the absence of the executive director, a person is designated as in charge.

(A) The executive director, superintendent, or administrator is responsible for employing persons possessing adequate education, training, and experience to perform the essential functions of the job assigned.

(B) The executive director is responsible for implementing the policies adopted by the governing board.

(C) The executive director is responsible for the ongoing operation of the facility.

(2) **Program director.** The program director is responsible for implementing and supervising the facility's programs and services. The executive director may also serve as the program director, if the director meets the qualifications listed in subsection (d) (2) of this Section.

(3) **Social services staff.** The social services staff is responsible for admission assessments, placement services, counseling, casework services to residents and their families, service plans, service plan reviews, and discharge plans.

(4) **Child care staff.** The child care staff is responsible for meeting the needs of residents, taking into account their age, physical and mental condition, and other factors that affect the amount of attention indicated.

(5) **Support staff.** The support staff is responsible for providing support duties.

(6) **On-call and part-time staff.** On-call and part-time staff is responsible for the duties of the position to which they are assigned.

(c) **Volunteers.** If a facility uses volunteers, the facility has current, written volunteer policy.

(1) Volunteers counted in the staff to child ratio meet all requirements for child care staff.

(2) Volunteers receive orientation before having contact with residents.

(3) Volunteers work under the direct supervision of the executive director or a designated staff member.

(d) **Executive director and program director qualifications.** The executive director, superintendent, or administrator and program director possess adequate education, training, and experience to perform the essential functions of the position.

(1) In a facility where the executive director operates primarily as an administrator and employs a program director, an executive director hired after June 15, 1990 has a minimum of a bachelor's degree from an accredited college or university.

(2) A person hired after June 15, 1990, who is solely responsible for direct program supervision, whether the executive director or the program director, meets one of the qualifications in (A) - (D) of this paragraph:

(A) a bachelor's degree in a behavioral science or other related area of study from an accredited college or university and three years of experience in children's services;

(B) a master's degree in social work, psychology, guidance and counseling, sociology, child development, human relations, or other related area of study from an accredited college or university and two years of experience in children's services;

(C) a doctorate in medicine, social work, psychology, guidance and counseling,

sociology, child development, human relations, or other related area of study from an accredited college or university and one year of experience in children's services; or

(D) for programs specializing in substance abuse treatment, the program director is a Qualified Substance Abuse Professional (QSAP).

(e) **Child care and supervisory staff qualifications.** Child care and supervisory staff possess adequate education, training, and experience to perform the essential functions of the position.

(1) All child care workers are 21 years of age or older.

(2) Staff hired after June 15, 1990, have a high school diploma or its equivalent within one year of employment.

(f) **Social services staff qualifications.** Social services staff whether employees or contractors possess adequate education, training, and experience to perform the essential functions of the position.

(1) Social services supervisory staff, hired after June 15, 1990, who are responsible for developing and implementing the facility's social services program, meet one of these qualifications:

(A) a bachelor's degree in social work from an accredited college or university;

(B) a bachelor's degree in behavioral science, social science, or other related area of study from an accredited college or university and one year of experience in children's services; or

(C) for programs specializing in substance abuse treatment, the social services supervisory staff is supervised by a QSAP.

(2) Social services staff hired after June 15, 1990, who provide only casework services have a bachelor's degree in a related area of study from an accredited college or university.

(g) **Employment requirements.** Staff meet the requirements outlined in this subsection.

(1) **References.** The facility obtains a minimum of three references for all staff prior to employment.

(A) References include the date, interview questions, responses, and the interviewer's signature.

(B) Copies of references are maintained in the employee's personnel record.

(2) **Tuberculin test.** Upon employment, each employee has a documented mantoux (PPD) tuberculin skin test with a booster, if needed, within the previous 12 months, unless the employee shows medical verification of a previous positive skin test.

(A) Only tests read by a physician or nurse are accepted.

(B) Employees with a new positive tuberculin skin test reaction have a chest x-ray. Employees with a previous history of a positive skin test present documentation of a chest x-ray. Further x-rays are not required unless signs or symptoms suggestive of tuberculosis develop.

(C) Employees with a positive skin test reaction submit annual documentation by medical personnel that signs or symptoms of tuberculosis are not present.

(3) **Performance evaluation.** Each employee has a written job performance evaluation at least annually, which is maintained in the employee's personnel record.

(h) **Criminal history investigations.** Staff criminal history investigations are maintained in a confidential manner, separate from the individual's personnel record. [10 O.S. § 404.1]

(1) **Owner or executive director responsibility.** Section 404.1 et seq. of Title 10 of the Oklahoma Statutes requires that every child care facility submits to the licensing records office, prior to employment:

(A) documentation of a search conducted within the last 30 days of the Child Care Restricted Registry for persons (C)(i) - (ii);

(B) a completed criminal history investigation conducted within the last 12 months including dispositions on all charges; and

(C) a criminal history review request on a form provided by licensing requesting an Oklahoma State Courts Network search for:

(i) any person making application to establish or operate a child care facility;

(ii) each applicant prior to employment, including all caregivers, substitutes, support staff, and any other person employed by the facility or program; or

(iii) adults, including providers' spouses or adult children, who live in the child care facility.

(2) **Unsupervised access to children.** The facility obtains a completed criminal history investigation for persons who have unsupervised access to children, such as lab students, Temporary Assistance for Needy Families (TANF), Work Experience Program (WEP) workers, volunteers, contracted staff, or janitors.

(3) **Exceptions.** Criminal history investigations are not required for:

(A) staff who move to a new facility operated by the same organization;

(B) volunteers who have access to children when facility staff are present with children at all times;

(C) contracted staff that provide transportation, lessons, or other services if facility staff are present with children at all times; and

(D) providers' children who become adults, age 18, during continuous residence at the licensed facility.

(4) **Authorized agencies.** Criminal history investigations are acceptable only when:

(A) conducted by the Oklahoma State Bureau of Investigation (OSBI); and

(B) conducted by the appropriate agency in the previous state(s) of residence if the individual has resided in Oklahoma less than three years.

(5) **Sex Offender Registry.** The OSBI report includes a search of the Oklahoma Department of Corrections' files maintained by the OSBI pursuant to the Oklahoma Sex Offender Registration Act.

(6) **Verification of records search.**

(A) **Prior to issuance of initial permit or change of ownership.** The facility must receive criminal history review results from the OCCS licensing records office for all employees.

(B) **Existing facilities.** The facility must submit a criminal history review request on a form provided by OKDHS to the OCCS licensing records office for all employees, prior to employment. This request for review must be maintained on file at the facility while awaiting the results.

- (i) **Prohibitions.** The facility is restricted from knowingly hiring a person who:
- (1) has pending charges, unless waived by OCCS, entered a plea of guilty or nolo contendere, no contest, or been convicted of:
 - (A) any criminal activity involving violence against a person;
 - (B) child abuse or neglect;
 - (C) possession, sale, or distribution of illegal drugs;
 - (D) sexual misconduct;
 - (E) gross irresponsibility or disregard for the safety of others; or
 - (F) animal cruelty; or
 - (G) pattern of criminal activity
 - (2) is required to register pursuant to the Sex Offender Registration Act or Mary Rippy Violent Crime Offenders Registration Act. [57 O.S. § 581 et seq.]
 - (3) is a registrant on the Child Care Restricted Registry.
- (j) **Request for waiver.** The facility director may request a waiver from the restrictions listed in subsection (i) of this Section.
- (1) The waiver request is made in writing to OKDHS and considered by the waiver review committee.
 - (2) The person for whom the waiver is requested cannot be employed until a decision is made.
 - (3) A waiver may not be granted to any person:
 - (A) convicted of a sex offense pursuant to the Sex Offender Registration Act;
 - (B) required to register under the Mary Rippy Violent Crime Offenders Registration Act; or
 - (C) identified as a registrant on the Child Care Restricted Registry.
- (k) **Restrictions.** The restrictions contained in this subsection apply to employees and persons who provide services to the facility.
- (1) Persons who are employed by the facility or who provide services to the facility may not use or be under the influence of, alcohol or illegal drugs during hours of work.
 - (2) If a staff member is alleged to have committed an act described in subsection (i) of this Section, the facility's executive director determines and documents whether the staff member is removed from contact with children until the allegation is resolved. However, if criminal charges are filed, the accused is removed from contact with children until the charges are resolved.
 - (3) A person who has received a deferred sentence for any charge in paragraph (1) of subsection (i) of this Section is removed from contact with children for the duration of the deferment.
- (l) **Orientation.** Staff receive orientation within 30 days of employment.
- (1) Staff who will work with residents receive orientation before being assigned as the primary staff responsible for residents.
 - (2) Orientation includes, but is not limited to:
 - (A) confidentiality;
 - (B) resident grievance process;
 - (C) fire and disaster plans;
 - (D) suicide awareness and protocol
 - (E) emergency medical procedures;

- (F) organizational structure;
 - (G) program philosophy;
 - (H) personnel policy and procedure;
 - (I) the mandatory reporting of child abuse; and
 - (J) administrative policy and procedure regarding behavior management.
- (3) The OKDHS publication no. 86-78, Licensing Requirements for Residential Child Care Facilities, is part of the orientation process and is available to staff at all times.
- (4) Orientation may be counted toward the total training hours for the first year.
- (m) **Staff training.** Staff meet the requirements for training contained in (1) - (6) of this subsection.

(1) **Training for the administrator and program director.** The administrator and program director obtain a minimum of 12 clock hours of continuing education per calendar year. Hours are prorated at one hour per month for staff who have not been employed for a full year. The content pertains to the roles and responsibilities of the position.

(2) **Training for social services staff.** Social services staff, including licensed mental health professionals and those providing casework services, obtain a minimum of 12 clock hours of continuing education per calendar year. Hours are prorated at one hour per month for staff who have not been employed for a full year. The content pertains to the roles and responsibilities of the position.

(3) **Training for child care staff.** Child care staff receive training.

(A) Full-time child care staff obtain a minimum of 24 clock hours per calendar year of staff development courses. Hours are prorated at two hours per month for staff who have not been employed for a full year.

(B) Part-time child care staff obtain a minimum of 12 clock hours per calendar year of staff development courses.

(C) On-call or substitute child care staff obtain a minimum of six clock hours per calendar year of staff development courses.

(D) The content for staff development courses for child care staff pertains to the roles and responsibilities of the position assigned.

(E) When residents are in care on the program premises or on any program sponsored field trip, at least one staff is present who has current documentation of certification in age-appropriate first aid and cardio-pulmonary resuscitation (CPR). All other child care staff complete training in first aid and CPR, including infant and child if appropriate, within 90 days of employment. Child care staff maintain current training in CPR and first aid thereafter.

(i) CPR training is conducted by an individual certified as an instructor through the:

(I) American Red Cross;

(II) Emergency Medical Services (EMS) Safety Services;

(III) Emergency Care and Safety Institute;

(IV) American Heart Association or American Heart sponsored CPR for Family and Friends; or

(V) American Safety and Health Institute.

(ii) First aid training is conducted by a person certified as a first aid instructor, or a health professional using a curriculum from an OKDHS approved source

through:

- (I) Emergency Medical Services for Children (EMSC) First Care;
- (II) American Red Cross;
- (III) EMS Safety Services;
- (IV) Emergency Care and Safety Institute;
- (V) American Heart Association;
- (VI) American Safety and Health Institute;
- (VII) American Academy of Pediatrics First Aid for Caregivers and Teachers (PedFACTs); or
- (VIII) another OKDHS approved source.

(4) **Training for support staff.** Support staff who occasionally provide instruction or training to residents obtain a minimum of six clock hours of staff development courses per calendar year. The content is relative to the role and responsibility of the position or relative to interacting with residents.

(5) **Behavioral intervention techniques.** Within 30 days of employment, and prior to being solely responsible for residents, child care staff and those support staff that occasionally provide instruction or training to residents complete training or provide proof of current certification in behavioral intervention techniques that includes:

- (A) rules and appropriate consequences of various interventions;
- (B) techniques for early de-escalation and preventive intervention;
- (C) team approaches to behavior management;
- (D) verbal crisis intervention; and
- (E) safe and appropriate physical restraint.

(6) **Training for contracted personnel.** Contracted personnel not providing direct care or counted in the supervision ratio are exempt from meeting staff training requirements as listed in subsection (m)(1) – (5) of this Section.

(n) **Documentation.** All orientation and training hours are documented and available for licensing staff to review. Documentation includes the names of staff members who attended, course title, course description, date, hours attended, and the trainer or facilitator.

(o) **Personnel records.** Facilities maintain personnel records for each employee.

(1) The facility submits to OKDHS at the time of application:

- (A) a current list of employees; and
- (B) a staff information sheet, provided by OKDHS, for each employee.

(2) The facility maintains on file a written personnel record for each employee working at the facility, which is kept for at least one year following an employee's separation from employment. The personnel record includes:

- (A) an application, resume, or staff information sheet that documents qualifications for the position;
- (B) any health records required by the facility;
- (C) documentation of the mantoux (PPD) tuberculin skin test and annual documentation by a health professional for child care staff who have had a positive tuberculin skin test reaction that signs or symptoms of tuberculosis are not present;
- (D) documentation of request and/or results of a criminal history review;
- (E) documentation that the individual is a non-registrant on the Child Care

- Restricted Registry;
- (F) other applicable criminal history records;
- (G) three references;
- (H) annual performance evaluations and any reports and notes relating to the individual's employment with the facility;
- (I) date of employment; and
- (J) date and reason for leaving employment.

Section 153.2. Supervision of residents

- (a) The facility employs an adequate number of staff as child care workers to meet the needs of residents, taking into account the residents' ages, physical and mental condition and other factors that affect the amount of attention and supervision required.
 - (1) The facility maintains a ratio of one staff person for 10 residents (1:10) during awake hours.
 - (2) The facility maintains a ratio of one staff person for 12 residents (1:12) during sleeping hours.
 - (3) In a maternity facility where each mother is responsible for the care of her own child, the facility maintains a ratio of one staff person for 12 mothers and their children (1:12).
- (b) A child care staff member's own children living in the residential facility are included when determining staff to child ratios.

Section 154. Social services

- (a) **Admission.** The facility involves the resident and parents or custodian in the admission process.
 - (1) Upon admission, an admission assessment is completed for each resident indicating that the placement is appropriate for each resident's needs. The admission assessment is documented and available for licensing staff to review. An admission assessment includes:
 - (A) a description of the circumstances that led to the resident's referral;
 - (B) a description of the resident's family, relationship with family members, and relationships with other significant adults and children;
 - (C) a description of the resident's current and past behavior, including both appropriate and maladaptive behavior;
 - (D) the resident's immunization record, medical and dental history, including any current medical problems;
 - (E) the resident's school history, including current educational level, special achievements, and any school problems;
 - (F) the resident's history of any other placements outside the home, including the reasons for placement;
 - (G) the resident's mental health history; and
 - (H) documentation indicating efforts to obtain any of the identifying information in (A) through (G) of this paragraph, if any information is not obtainable.
 - (2) **Admission of children under five years of age.**
 - (A) A facility may only accept children under age five when maintaining a sibling group, or maintaining a child with a parent, or when there is a need for special

services, such as:

- (i) medical care or monitoring;
- (ii) awake supervision; or
- (iii) crisis intervention, assessment, or treatment.

(B) If a resident under five years of age is in care at the facility, the admission assessment and the service plan document why this placement is in the resident's best interest.

(3) Persons 19 years of age and older are not admitted to the facility. A facility may continue to serve a person who entered the program prior to his or her 19th birthday through the completion of his or her service plan.

(4) Upon admission, the facility obtains authorization, by the parents' or custodian's signature, for:

- (A) authority to provide care;
- (B) authority to provide medical care;
- (C) financial agreement, if a charge is made for the resident's care; and
- (D) authority to use the resident or the resident's picture in publicity, if applicable.

(5) Residents receive a medical examination by a health professional within 60 days prior to admission or within 30 days following admission. However, a documented medical exam performed within the 12 months prior to admission is acceptable when a resident is transferred from another licensed facility.

(6) Upon admission, the facility advises the resident of all rules and regulations of the facility.

(7) The facility documents, by the resident's and parents' or custodian's signatures, that the resident and parents or custodian have been provided written copies of the facility's policies, which includes, but is not limited to, resident's rights, grievance procedures, behavior management policies, trips away from the facility, use of volunteers, and frequency of reports to the parents or custodian.

(8) Acceptance of out-of-state residents is made according to the Interstate Compact on the Placement of Children.

(b) **Service planning.** The service plan is available for licensing staff to review.

(1) **Comprehensive service plan.** A written service plan is developed and documented for each resident within 30 days of admission.

(A) The facility involves the resident and parents or custodian in the development of the service plan. If the parents or custodian do not participate in the development of the service plan, the reason for non-participation is documented in the service plan.

(B) The service plan identifies and includes:

- (i) the resident's needs, such as counseling, education, physical health, medical care, or recreation, in addition to basic needs for food, shelter, clothing, routine care, and supervision;
- (ii) strategies for meeting the resident's needs, including instructions to staff. Individual health needs must be addressed in the facility's medical plan. Refer to Section 154.3;
- (iii) the estimated length of stay;
- (iv) goals and anticipated plans for discharge;
- (v) the facility's plan to involve the residents parents or custodian, including

visitation guidelines; and

(vi) the names and signatures, with the date, of those participating in developing the service plan.

(2) **Service plan review.** Service plan reviews are available for licensing staff to review.

(A) The service plan is reviewed within 90 days after it has been developed and at least every six months thereafter.

(B) The facility involves the resident and parents or custodian in the service plan review. If the parents or custodian do not participate in the service plan review, the reason for non-participation is documented in the service plan.

(C) The service plan review includes:

(i) an evaluation of progress toward meeting identified needs;

(ii) any new needs identified since the plan was developed or last reviewed and strategies to meet those needs, including instructions to staff;

(iii) an update of the estimated length of stay and discharge plans, if changed;

(iv) an assessment of the continued appropriateness of placement with the goal of determining whether the resident should be returned home, placed in a foster home, transferred to some other care better suited for the resident's development, or maintained for a longer period in the child care facility; and

(v) the names, and signatures, with the date, of those participating in the review.

(c) **Services.** The facility provides or facilitates the provision of services to meet the stated goals of the service plan.

(d) **Discharge procedures.** The facility involves the resident, parents or custodian, and staff in discharge planning.

(1) Except in an emergency, a resident is not discharged to anyone other than the resident's parents or custodian without written authorization.

(2) An emergency discharge occurs when a resident presents a danger to self or others. Upon emergency discharge of a resident, the facility informs the parents or custodian immediately.

(3) The person to whom the resident is discharged produces photographic identification and signs the discharge form before leaving with the resident.

(4) The date, time, destination, and circumstances of the resident's discharge are documented in the resident's record. The name, address, and relationship of the person to whom the resident is discharged are included in the documentation.

(e) **Resident's records.** The facility maintains a written record for each resident, which is retained for three years following the resident's discharge.

(1) The record includes:

(A) the resident's name, address, telephone number, Social Security number, sex, race, religion, birth date, and birth place;

(B) the admission assessment;

(C) required authorizations, as specified in Section 154(a)(4);

(D) medical records;

(E) the comprehensive service plan and reviews;

(F) educational information;

(G) reports of serious incidents, which include, but are not limited to, suicide

attempts, injuries requiring medical treatment, runaway attempts, commission of a crime and allegations of abuse, neglect, or abusive treatment. The report includes the date and time of the incidents, the names of all persons involved, the nature of the incidents, and the circumstances surrounding them;

(H) reports of separation, use of physical restraint, and other restrictions;

(I) discharge summary;

(J) signed documentation that the resident and parents or custodian have been provided written copies of the facility's policies on resident's rights, grievance procedures, behavior management policies, trips away from the facility, use of volunteers, and frequency of reports to the parent or custodian; and

(K) grievance forms signed by the person filing the grievance, if grievances were filed.

(2) Resident's records are confidential as defined by federal and state laws.

Section 154.1. Program

(a) **Rights of residents.** The facility has current, written clients' rights policy that supports and protects all residents, which is available for residents, parents or custodians, staff, and licensing staff to review.

(1) Each resident and family is informed, in a language they commonly use, of the facility's policies and procedures regarding their rights.

(2) Each resident has a right to an individualized plan of care or treatment that focuses the services of the facility toward meeting the resident's needs. Each resident has the right to participate in the development of the plan.

(3) The facility ensures that the resident's rights and responsibilities are protected regarding the items listed in (A) - (O) of this paragraph.

(A) **Personal finances.** Each resident is given the opportunity to have and handle money for personal use in accordance with the resident's service plan.

(B) **Personal possessions.** Each resident is allowed to bring personal possessions to the facility and to acquire personal belongings as permitted by facility policy and procedure.

(C) **Personal care and hygiene.** Each resident is supplied with facilities and supplies for personal care, hygiene, and grooming.

(D) **Clothing.** Each resident possesses adequate, clean, well-fitting, and seasonable clothing and has a safe place to keep it.

(E) **Community activities.** Each resident has the right to community contacts and opportunities for participation in the local community in accordance with the resident's service plan.

(F) **Telephone contacts.** Each resident has access to a telephone to initiate and receive uncensored personal calls in accordance with facility policy and procedure. The residents have access to an attorney and authorized representative of the referring agency.

(G) **Mail.** Resident's letters, both incoming and outgoing, are not opened unless there is suspicion of contraband. If correspondence is opened, the resident is informed in advance, and is present when the letter is opened. This action is documented.

(H) **Restrictions.** Any restrictions placed on communications are explained to the

resident and clearly documented.

(I) **Publicity.** Consent is obtained by the facility from the resident and the resident's parents or custodian prior to the use of any publicity about or related to the resident.

(i) Residents are not caused embarrassment by any publicity or promotional materials.

(ii) Residents are not forced to acknowledge their dependency on the facility or their gratitude to it.

(J) **Grievance.** Residents and parents or custodians have the right to file a grievance.

(K) **Religious training.** Each resident is provided an opportunity to participate in religious services.

(L) **Work.** Each resident is taught good work habits and is provided with a variety of tasks. Whenever possible, residents earn money through work. Residents are never substituted for employed staff.

(M) **Safety.** Adequate measures are taken to prevent accidents and to avoid health and safety hazards.

(N) **Recreation.** Each resident is given time to pursue talents, hobbies, and chosen interests in accordance with the resident's service plan.

(i) The facility provides a balanced on-grounds or off-grounds recreational program.

(ii) A written schedule of planned recreational, leisure, or physical exercise activities is developed with input from staff members and residents and is kept on file and available for licensing staff to review.

(O) **Sleep.** The facility provides adequate time and facilities for proper rest and sleep commensurate with each resident's age, health needs, safety, and activities.

(b) **Visitation.** The facility provides the residents and parents or custodian the opportunity for on- or off-campus visits in accordance with each resident's service plan.

(1) A record is kept of all visits.

(2) Reasons for visitation restrictions are explained to the resident and parents or custodian, documented in the resident's record, and reviewed every six months.

(3) Residents have access to their attorney and authorized representative of the referring agency.

(c) **Education.** The facility has a clearly written policy that describes the plans for meeting the educational needs of residents.

(1) Training and education are available to meet each resident's abilities.

(2) The facility ensures that school-age residents receive the educational instruction to which they are entitled under provisions of federal and state education laws and regulations.

(3) Education is provided in or by a public school or a private school.

(4) The facility ensures that any resident who is legally not attending school is either gainfully employed or enrolled in a high school equivalency (GED) program or in a training program that teaches necessary life skills or methods of job acquisition.

(5) Tutoring is provided or arranged by the facility for residents, as needed.

(d) **Care of children birth to five years of age.** Programs caring for children birth to five years of age provide age appropriate activities and equipment. Staff responsible for the care of these children are trained in developmentally appropriate practice.

Section 154.2. Behavior management

(a) **Behavior management policy.** Behavior management policy includes:

- (1) goals and purposes of the behavior management program;
- (2) methods of behavior management;
- (3) a list of staff authorized to administer the behavior management policy; and
- (4) methods of monitoring and documenting the use of the behavior management policy.

(b) **Prohibitions.** Except as otherwise authorized in Section 168 and Section 169, facility policy prohibits:

- (1) shaking, striking, spanking, or other cruel treatment;
- (2) harsh, humiliating, cruel, abusive or degrading language;
- (3) denial of food or sleep;
- (4) work tasks that are degrading or unnecessary and inappropriate to the resident's age and ability;
- (5) denial of private familial and significant other contact, including visits, phone calls, and mail, as a means of punishment;
- (6) use of chemical agents, including tear gas, mace, or similar agents;
- (7) seclusion;
- (8) extreme physical exercise;
- (9) one resident punishing another resident;
- (10) chemical restraint;
- (11) mechanical restraint;
- (12) group punishment; and
- (13) violating a resident's rights.

(c) **Separation.** A resident may be removed from the group or group activity as a method of behavior management. The resident remains alone, but within hearing of an adult in an unlocked, safe, clean, well-lighted, well-ventilated area. The separation does not exceed one hour in duration.

(d) **Physical restraint.** Restraint may only be used when less restrictive interventions, according to facility policy, have been attempted or when an immediate intervention is required to protect the resident, a staff member, or others. The restraint technique used must be the least restrictive intervention that will be effective to protect the resident or others from harm. Restraint must be discontinued at the earliest possible time. A written incident report is completed within 24-hours following each use of physical restraint.

Section 154.3. Health and medical services

(a) **Medical plan.** The facility has an operational plan to meet the individual medical needs of each resident based on information obtained from the admission assessment, physical examination by a health care professional, and observation during placement.

(b) **Physical examination.** Each resident receives a physical examination annually, or

at more frequent intervals as recommended by a health care professional.

(c) **Medical care.** Each resident receives proper medical and dental care. When a serious accident or illness occurs to a resident, the facility takes the necessary emergency action and notifies the parents or custodian immediately.

(d) **Immunizations.** Each resident is immunized against communicable diseases in accordance with the rules and regulations of the Oklahoma State Department of Health.

(e) **Medication.** The facility has current, written medication policy.

(1) On each shift, a staff member is designated to ensure compliance with the facility's medication policy.

(2) When any medication is administered to a resident, a precise record is kept that includes:

(A) the resident's name;

(B) the name of the medication;

(C) the dosage, date and time given, and signature of the person who administered it;

(D) reason the medication is given; and

(E) any unusual reaction. The resident, the parents or custodian, and all staff members responsible for the resident are informed of the side effects of the medication prescribed for the resident.

(3) Prescription medications are administered by the designated staff member only as part of a prescribed therapeutic treatment.

(4) All medications are kept in a locked container and under the supervision of the designated staff member.

(5) All unused or outdated medication is disposed of per facility policy.

(f) **First aid supplies.** The facility maintains first aid supplies.

Section 154.4. Food and nutrition

(a) **Menu planning.** Menus are planned at least one week in advance. Menus are dated, posted, and kept on file for one year. Any substitutions are noted on the menu. When food services are not directed by a nutritionist or licensed dietitian, facilities consult annually with a qualified nutritionist or licensed dietitian.

(b) **Frequency and quality of meals.** All meals meet the nutritional needs of the residents.

(1) The facility provides or arranges for the provision of breakfast, lunch, and dinner and one or more snacks from food that is selected, stored, prepared, and served in a sanitary and palatable manner. Brunch and dinner may be provided on weekends and holidays only.

(2) Each meal contains a sufficient amount of food for every resident and additional servings are available and permitted.

(3) Cool, potable drinking water is available for residents at all times.

(c) **Special diets.** Facilities recognize the religious, cultural, and health needs of the residents when planning, preparing, and serving food.

(1) The facility makes available, as necessary, an alternate choice of food for each meal served for residents on special diets or residents who, because of religious beliefs, cannot eat particular foods.

(2) The facility follows individualized diets and feeding schedules that are prescribed

by the resident's physician.

(d) **Meals.** Facilities recognize the social and emotional needs of residents during mealtime.

(1) Residents and the staff who eat with them are served the same food, except for tea and coffee, unless differences in age or special dietary needs are factors.

(2) Residents who have not had opportunities to learn how to handle food with the usual table service are managed in such a way that they are not embarrassed or subject to the ridicule of other residents.

Section 154.5. Transportation

(a) **Vehicle requirements.** Residential child care facilities comply with the vehicle requirements described in (1) - (5) of this subsection. A vehicle used to transport residents:

(1) conforms to all applicable state motor vehicle laws and regulations;

(2) is maintained in a safe operating condition;

(3) has written documentation of regular maintenance of all facility vehicles to include quarterly inspection of tire wear and pressure, brakes, lights, and functioning seat belts;

(4) has door locks. The driver is responsible for keeping the doors locked when the vehicle is moving; and

(5) has an operable heater that is capable of maintaining a temperature of 65 degrees Fahrenheit in the vehicle, and a ventilation system.

(b) **Driver requirements.** Facilities comply with driver requirements described in (1) and (2) of this subsection. Program staff that drive a vehicle used to transport residents:

(1) are 21 years of age or older;

(2) possess a valid driver's license appropriate for the type of vehicle driven;

(3) do not transport more passengers than the manufacturer's designated capacity for the vehicle;

(4) have no conviction within the last three years of driving under the influence of alcohol, drugs, or other impaired driving offense; and

(5) designed to transport 10 or more passengers, complete training specific to the safe operation of that type of vehicle within three months of transporting residents.

(c) **Safety practices.** Facilities comply with the safety practices described in this subsection.

(1) The interior of each vehicle is maintained in a clean, safe condition with clear passage to operable doors.

(2) Residents who are transported are properly secured in a child passenger restraint system or individual seat belt. The facility has policies to ensure the safety of residents involved in farm and ranch work. Buses with a capacity of ten or more passengers that meet state and federal requirements for school buses are exempt from this requirement.

(A) Children are transported in compliance with applicable state law. [47 O.S. § 11-1112]

(B) The child passenger restraint system is:

(i) federally approved;

- (ii) installed according to the manufacturer's instructions;
 - (iii) appropriate to the height, weight, and physical condition of the child, according to the manufacturer's instructions; and
 - (iv) properly maintained.
- (3) Each seat belt is properly anchored to the vehicle and fits snugly across the child's hips or securely anchors car seats.
- (4) In accordance with state law, all adult passengers, except those in a full-size school bus, and the driver are properly secured by individual seat belts unless the driver or passenger has written verification from a doctor licensed in Oklahoma that the individual is unable to use a seat belt for medical reasons.
- (5) Effective June 2007, programs providing transportation for children younger than six years of age must have one staff person with current documentation of training in an OKDHS approved child passenger safety course. Information from the training is shared with all other staff that transport children. After May 2007, any staff used to meet this requirement have 60 days to obtain this training.
- (6) Vehicles containing residents younger than age 12 years are never left without adult supervision.
- (7) Children age 12 years and younger are prohibited from sitting in the front seat of an airbag equipped passenger vehicle unless an airbag cut off switch is installed and activated or if the vehicle has airbags equipped with weight sensitive devices. If a child 12 years or younger must be placed in front of an air bag, because all other positions are taken, it must be a child whose age and weight requires a forward facing harness seat.
- (8) A first aid kit is available in the vehicle at all times.
- (9) Safe conduct to and from all vehicles and safe off-street loading space is provided to protect children from:
- (A) backing vehicles;
 - (B) being between vehicles; and
 - (C) all traffic hazards.
- (d) **Transportation records.** Facilities maintain transportation records.
- (1) The facility maintains on file the name of each driver who transports residents and a copy of the valid driver license for that person.
 - (2) In accordance with state law, insurance verification is kept in the vehicle used to transport residents.
- (e) **Insurance.** If the facility's transportation services are provided by a private individual, a firm under contract, or by another arrangement, the facility maintains on file a copy of the individual's or firm's insurance coverage.
- (f) **Emergency planning.** The facility has a plan for transporting residents in case of emergency.

Section 157. Physical facility and equipment

- (a) **New construction.** Special consideration is given when choosing the site for new construction as to available water for fire fighting and access to all areas of the building for rescue.

(b) **Square footage.** Habitable living area is provided as in (1) - (4) of this subsection, which does not include offices, bathrooms, kitchen, laundry, hallways, furnace, or utility areas.

(1) There is a total of 150 square feet of habitable living area, including sleeping space, for the first resident and 100 square feet for each additional resident.

(2) Each sleeping room for more than one resident has 70 square feet for the first resident and 50 square feet for each additional resident.

(3) Each sleeping room intended for one resident contains 110 square feet.

(4) All areas counted as habitable space have a minimum ceiling height of seven feet, six inches.

(c) **Basements.** Basements cannot be used for sleeping quarters.

(d) **Mobile homes.** Facilities cannot be located in mobile homes.

(e) **Storage of personal belongings.** Adequate space for storage of personal belongings for each resident is provided.

(f) **Staff sleeping quarters.** Staff sleeping quarters are separate from those of the residents, but near enough to assure supervision.

(g) **Staff space.** Facilities provide sufficient space separate from space used for program and treatment activities for administrative activities, individual counseling sessions, and other staff functions required by the program design.

(h) **Bathrooms.** Bathrooms are maintained in a clean and sanitary condition with adequate ventilation.

(1) At least one flush toilet, hand sink, and bathtub or shower in good working condition is available for each six residents. Bathrooms are convenient to sleeping quarters, living, and recreation rooms.

(2) Flush urinals may be substituted for not more than one-half the required number of toilets when provided to serve males only.

(3) Hand sinks, bathtubs, and showers have cold and hot water with temperatures between 100 and 120 degrees Fahrenheit.

(4) Toilet paper, soap, and individual sanitary towels are provided within easy access of residents.

(i) **Diaper changing.** A non-porous changing pad in good repair is used when changing diapers. The diaper-changing surface is used only for diaper changing and is sanitized after each diaper change. Staff members wash and scrub their hands thoroughly with dispensable soap and warm running water after each diaper change.

(j) **Sanitation and safety.** All habitable and non-habitable areas are maintained in a clean and sanitary condition, free of litter and hazards.

(1) Harmful substances and objects that are not essential to facility operation are not kept on the premises. Other poisonous, flammable, or harmful materials are kept under lock when not under the supervision of an authorized adult.

(2) All firearms are stored unloaded in a locked container, cabinet, or closet. Ammunition is stored in a locked area separate from firearms.

(3) Every closet door can be opened from inside the closet.

(4) Every bathroom door lock can be unlocked from the outside in an emergency. The opening device is readily accessible to staff.

(5) All rooms used by residents are maintained at an indoor temperature between 65 and 85 degrees Fahrenheit.

(6) Indoor and outdoor recreational equipment and supplies are maintained in good condition, and play areas are free of hazards at all times.

(7) Floors, walls, ceilings, doors, and windows are maintained in good condition.

(8) The exterior foundation, roof, and walls are weather-proofed and maintained in good condition.

(9) All areas used by residents are well-lighted.

(10) The safety and sanitary conditions of house parent quarters is the responsibility of the facility.

(k) **Furnishings and decor.** The facility supplies comfortable furniture, as appropriate, for all living areas. Furniture for residents' use is of sufficient quantity and appropriately designed to suit the age, size, and capabilities of the residents.

(1) Each resident has an individual bed that is large enough to adequately accommodate the resident. Each bed has its own mattress and bedding.

(A) Cribs, port-a-cribs, and playpens may not have more than 2-3/8 inches between slats or between side and end panels.

(B) Cribs do not have decorative cutout areas in crib end panels or tall decorative knobs on the corner posts.

(C) Crib or port-a-crib mattresses fit snugly with no more than one inch between the mattress and crib.

(D) Drop-side latches hold sides securely and are not accessible by the child in the crib.

(2) Every bedroom and bathroom window is equipped with window treatments as needed for privacy.

(3) Broken, defective, or recalled furnishings and equipment are repaired or replaced.

(l) **Telephones.** An operable telephone is readily accessible to each living unit for emergency use.

(m) **Health regulations.** The facility complies with licensing regulations for buildings, utilities, grounds and food service sanitation as outlined in Section 163 and Section 164 and is inspected annually by the appropriate state agency.

(n) **Fire safety.** The facility complies with the state fire marshal's office regulations for construction and fire safety and is inspected annually by the state fire marshal's office or its designee.

(o) **Environmental quality.** A facility not on local water and sewage supply systems is inspected annually by the Department of Environmental Quality.

Section 163. Buildings, utilities, and grounds regulations

The requirements in this Section apply to all residential child care facilities constructed after June 15, 1990. Licensed facilities in operation June 15, 1990 continue to comply with the construction and safety regulations applicable to the issuance of their license.

(1) **Building.** Buildings used to house residential child care facilities are structurally sound. Structures comply with the building code adopted by the Oklahoma State Fire Marshal Office, the plumbing code, mechanical code, and fuel gas code adopted by the Construction Industries Board and the latest edition of the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE)

Standards.

- (A) Exterior and interior surfaces are maintained in sound condition, free of holes, peeling paper, and paint.
 - (B) Windows and doors are in good repair, and free of broken glass or hazards.
 - (C) Floors are cleanable and in good repair.
 - (D) All uncovered floors, including concrete and wood floors, are sealed.
- (2) **Premises.** The premises are maintained in accordance with the requirements listed in this paragraph.
- (A) The premises are free of harborage for insects, rodents, and other vermin.
 - (B) Safe, effective measures are taken to minimize the presence of, and to protect against, the entry of vermin.
 - (C) The premises are otherwise maintained free of hazards to children.
 - (D) The premises are free of illegal drugs and paraphernalia.
 - (E) Materials used to prevent egress of children such as barbed wire, electrical fencing, razor and concertina wire are prohibited.
- (3) **Tobacco use.** The facility prohibits the use of any tobacco product by residents. Smoking is prohibited in buildings used by residents or in the presence of residents. The facility prohibits staff members from using tobacco products in the presence of residents or in any rooms used by residents.
- (4) **Screening.** Every window, exterior door, hatchway, or similar device is rodent proof, reasonably water and weather tight, and is kept in working condition and good repair. During the portion of the year when there is a need for protection against mosquitoes, flies, and other flying insects, every door and window is provided with a 16-mesh, properly fitting screen. Air conditioned habitable areas are adequate to meet this requirement when properly operated unless vermin are able to enter to such extent that a nuisance or hazard is created.
- (5) **Ventilation.** Each habitable room must be ventilated. Window areas meet requirements of the State Fire Marshal. Non-habitable areas, such as bathrooms and food preparation areas, may provide other approved ventilation systems in lieu of windows or skylights. Adequately designed, maintained, and operated heating and cooling systems are deemed to meet the ventilation requirements.
- (6) **Lighting.** All areas used by residents are well-lighted.
- (7) **Windows.** Effective July 1, 2009 any new construction or existing space that has not been previously licensed as resident's sleeping quarters have an exterior window for natural lighting.
- (8) **Laundry.** Laundry areas are maintained in a clean, safe condition. Equipment is installed to meet safety requirements.
- (9) **Water supply.** The water supply is adequate, of a safe and sanitary quality, meets state quality standards, and is approved by the Oklahoma Department of Environmental Quality (DEQ).
- (A) When not on a public water supply, such as well water, water meets local and state testing requirements and is tested annually.
 - (B) All areas where food is prepared or equipment, utensils, or containers are used have hot and cold water under pressure.
- (10) **Sewage disposal.** All sewage, including mop water, is disposed of in a public sewage system or, in its absence, in a manner approved by the DEQ.

(11) **Plumbing.** Plumbing is sized, installed, and maintained in a safe manner and in accordance with the Oklahoma Plumbing License Act.

(A) Plumbing constructed after June 1, 1987, is installed in compliance with the International Plumbing Code or applicable local ordinances.

(B) Any cross-connection between the potable water supply and any nonpotable or questionable water supply, or any source of pollution through which the potable water supply might become contaminated, is prohibited.

(C) Water closets, lavatories, bathtubs, and showers are properly connected to a water and sewer system approved by the Construction Industry Board and are in good working condition.

(D) Every lavatory basin and bathtub or shower is supplied with hot and cold water under pressure at all times.

(12) **Electrical.** The electrical distribution system is sized, installed, and maintained in a safe manner and in accordance with the Oklahoma Electrical Licensing Act. Portions of the electrical system constructed, repaired, or replaced after June 1, 1987, are installed in compliance with the current National Electrical Code. Lighting is at least 20 foot candles at desk level.

(13) **Garbage and rubbish disposal.** Prior to disposal, all garbage and rubbish containing food wastes or diapers are kept in leak-proof, non-absorbent containers and covered with tight-fitting lids when filled, stored, or not in continuous use.

(A) The containers are adequate for the storage of all food waste and rubbish accumulating on the premises.

(B) Each container is thoroughly cleaned when soiled.

(C) Garbage disposal units, if used, are of suitable construction and installed in compliance with state and local standards.

(D) All garbage and rubbish are disposed of frequently and in such a manner to prevent a nuisance.

(E) All hazardous material is disposed of properly.

(14) **Swimming pools.** In accordance with state law, swimming pools used by children in a residential facility are considered public bathing places and must meet the requirements of the Design Standards and Operational Criteria for Public Bathing Places of Oklahoma State Department of Health (OSDH).

(A) If a private swimming pool is used, it then becomes a public pool and must meet the requirements of OSDH.

(B) The use of portable pools is prohibited.

(C) A certified life guard or person having a current water safety certificate or comparable certificate with cardio-pulmonary resuscitation and first aid is in attendance at all times when the pool is in use.

(15) **Animals.**

(A) Harboring animals on the premises is in accordance with local ordinances.

(B) Animals may be kept on the premises only when the health and safety of each animal and the residents can be reasonably assured.

(C) Animals with which residents have contact are maintained in a state of good health and are free of diseases communicable to humans.

(D) Dogs and cats kept on the premises are vaccinated annually by a licensed veterinarian.

(E) Areas of confinement are cleaned of excrement regularly. Animals are maintained in a visibly clean manner.

(F) The OSDH is immediately notified as required by state law if a resident is bitten by an animal.

Section 164. Food service requirements

All residential child care facilities comply with the following regulations adapted from the Oklahoma State Department of Health Rules and Regulations pertaining to food service establishments.

(1) **General.** Food service requirements are listed in this paragraph.

(A) Food is protected at all times from any contamination including cross-contamination between raw and cooked foods, toxic substances, or contamination by insects or rodents while being stored, prepared, displayed, dispensed, packaged or transported.

(B) Equipment and utensils used for food storage, preparation, and serving are maintained in a sanitary condition.

(2) **Food supplies.** The requirements regarding food supplies are contained in this paragraph.

(A) **Food sources.** Food is in sound condition, free from spoilage, contamination, filth, adulteration, misbranding, and safe for human consumption.

(B) **Home-canned and hermetically sealed food.** Individually home-canned food or use of food in hermetically sealed containers that was not prepared in a food processing establishment is prohibited.

(C) **Milk products.** Requirements pertaining to milk products include:

(i) only Grade A pasteurized fluid milk and fluid milk products for drinking are permitted;

(ii) pasteurized dry milk or evaporated milk may be used for cooking purposes only;

(iii) milk and milk products are stored at 41 degrees Fahrenheit or below;

(iv) milk is stored in the original carton; and

(v) milk may be transferred from the original container to pitchers for serving. However, milk removed from the original container may not be returned to the original container or stored for later use.

(D) **Meat, poultry, and fish.** Meat, poultry, and fish are obtained from approved sources and have been inspected by appropriate governmental authorities. Raw or undercooked animal foods such as rare ground meat, shellfish, or steak are prohibited.

(E) **Ice.** Ice used for any purpose is made from water which comes from an approved source and was manufactured, stored, transported, and handled in a sanitary manner.

(F) **Juice.** Apple juice, apple cider, and beverages containing apple juice are pasteurized or commercially sterile. Juices that bear a warning label are prohibited.

(G) **Sprouts.** Raw seed sprouts are prohibited.

(3) **Potentially hazardous foods.** Requirements pertaining to potentially hazardous foods are contained in this paragraph.

- (A) **Cooking.** Potentially hazardous foods are cooked according to food regulations adopted by OSDH.
- (B) **Egg products.** Only clean, whole-shell eggs without cracks, which meet applicable grade standards and are held at 41 degrees Fahrenheit during storage, or pasteurized shell eggs or pasteurized liquid, frozen, or dry eggs are permitted.
- (i) Raw unpasteurized eggs are not used in uncooked food, for example, ice cream or eggnog.
 - (ii) Eggs are cooked to at least 145 degrees Fahrenheit for 15 seconds. Soft-cooked unpasteurized eggs are prohibited.
- (C) **Reheating foods.** Before being served, potentially hazardous foods that have been cooked and then refrigerated are reheated rapidly throughout to 165 degrees Fahrenheit or higher before being served.
- (4) **Food protection.** Foods are covered and protected from contamination while being stored, prepared, displayed, or transported.
- (A) Medicines and other hazardous items are stored in a manner that prevents contamination of food.
 - (B) Refrigeration units and insulated facilities are required to assure maintenance of all food at 41 degrees Fahrenheit or below except during preparation and service.
 - (C) A thermometer is located in a conspicuous place in each refrigerator and freezer.
 - (D) All perishable foods, including fruits and vegetables, are stored at temperatures that will protect against spoilage.
 - (E) A suitable small-diameter probe thermometer is available to check food temperatures.
 - (F) All potentially hazardous foods are maintained at safe temperatures, 41 degrees Fahrenheit or below or 135 degrees Fahrenheit or above, except during necessary periods of preparation and service.
 - (G) Raw eggs are not to be cracked and combined unless used immediately.
 - (H) Use of unlabeled cans is prohibited.
 - (I) Use of damaged cans that are bulging or have a broken seal are prohibited.
 - (J) Frozen food is kept at 10 degrees Fahrenheit or below except when being thawed at refrigerator temperature of 41 degrees Fahrenheit or under cool, potable running water at 70 degrees Fahrenheit or below, or microwaved as part of the cooking process.
 - (K) Cased food in water proof containers may be stored on a floor that is clean and not exposed to moisture.
- (5) **Food preparation.** Food is prepared with a minimum of manual contact on food-contact surfaces and with clean, sanitized utensils.
- (A) Whenever there is a change in processing between raw beef, pork, poultry, or seafood, or a change in processing from raw to ready-to-eat foods, each new operation begins with clean, sanitized food-contact surfaces and utensils.
 - (B) Raw fruits and vegetables are thoroughly washed with potable water before being cooked or served.

(6) **Use of food.** Individual or family-style portions of food once served are not served again. Prepared and unserved food may be properly stored for later service. Wrapped food that remains properly stored and has not been unwrapped may be served again.

(7) **Transporting food.** The requirements for storage, display, and general protection against contamination contained in this Section apply to all food that is transported from one location to another for service.

(A) During transportation, potentially hazardous food is kept at 41 degrees Fahrenheit or below or at 140 degrees Fahrenheit or above.

(B) During transportation, all food is in covered containers or completely wrapped or packaged to protect it from contamination.

(8) **Catering services.** When catering services are used:

(A) meals are obtained from a food service establishment approved by the health department; and

(B) procedures and equipment for transporting meals are approved by the health department.

(9) **Health and hygiene.** The health and hygiene requirements are listed in (A) - (C) of this paragraph.

(A) Individuals are prohibited from working in any capacity in any area of food service if diagnosed with Salmonella Typhi, Shigella spp., Enterohemorrhagic or Shiga toxin-producing Escherichia coli, Hepatitis A virus, or Norovirus.

(B) Individuals are restricted from working in any area of food service if diagnosed with or a carrier of any communicable disease, or while afflicted with boils, infected wounds, sores, an acute respiratory infection, vomiting, fever, sore throat with fever, or diarrhea.

(C) All individuals wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices while on duty.

(i) Individuals thoroughly wash their hands and the exposed portions of their arms with dispensed soap and warm water for at least 20 seconds before starting work, during work as often as necessary to keep them clean, after handling raw food products and after eating, drinking, using the toilet or returning from other areas of the facility, or any other contamination.

(ii) Individuals keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.

(10) **Food equipment, utensils, and storage items.** All equipment and utensils are designed and constructed of safe, non-toxic materials and are smooth, non-absorbent, easily cleaned, durable, and in good repair.

(A) All equipment is installed to facilitate cleaning of the equipment and adjacent areas.

(B) Adequate food service utensils are provided to ensure complete food service for one meal for the licensed capacity of the facility.

(C) Tableware is washed, rinsed, and sanitized after each use and stored in a clean area.

(D) To prevent cross-contamination, kitchenware, utensils, and food contact surfaces of equipment are washed, rinsed, and sanitized after each use.

(E) Cooking devices are cleaned as often as necessary and are free of encrusted

grease deposits and other soils.

(F) Non-food contact surfaces of all equipment, including tables, counters, and shelves, are cleaned as often as necessary to keep them free of accumulations of dust, dirt, food particles, and other debris.

(11) **Cleaning and sanitizing equipment and utensils.** Equipment, utensils, and service items are maintained in a sanitary condition by use of one of the methods listed in this paragraph.

(A) **Dishwashing machines.** Commercial or domestic dishwashing machines are acceptable if heat or chemical sanitizing cycles are properly installed and if operated in a manner that allows completion of a sanitizing cycle without opening the machine. Adequacy of the sanitizing cycle is 180 degrees Fahrenheit by heat or 50 parts per million by sanitizer in accordance with United States Environmental Protection Agency (EPA)-approved labels.

(B) **Manual cleaning.** Requirements for manual cleaning are in this subparagraph.

(i) If a three-compartment sink or automatic dishwasher is not available, a two-compartment, domestic-type sink may be used when additional vessels are provided to ensure the rinsing and sanitizing of all equipment, utensils, and tableware.

(ii) Equipment, utensils, and tableware are washed, rinsed, and sanitized in the sequence listed in this subparagraph.

(I) Sinks are cleaned prior to use.

(II) In the first compartment, items are thoroughly washed with a detergent in a solution that is kept clean.

(III) In the second compartment, equipment items are rinsed with clean water until they are free of detergent and abrasives.

(IV) In the third compartment, items are sanitized.

(iii) Food-contact surfaces of all equipment and utensils are sanitized by immersion in a clean solution containing any chemical sanitizing agent.

(iv) All items are air-dried in a self-draining position before being stored. No cloth drying is permitted.

(C) **Use of single-service articles.** Facilities that do not have adequate and effective facilities for cleaning and sanitizing utensils use single-service articles for both preparation and service.

(i) Single-service articles are stored in closed cartons or containers which protect them from contamination.

(ii) Single-service articles are used only once.

(12) **Storage area.** Storage areas meet the requirements contained in this paragraph.

(A) Adequate space is provided for the storage of sanitized equipment, utensils, and service items.

(B) Items are stored above the floor in a clean, dry location to protect food contact surfaces from splash, dust, and other contamination.

(C) Only poisonous and toxic materials that are required to maintain sanitary conditions and for sanitation purposes are used or stored in the food preparation area.

(D) Poisonous and toxic materials are identified and used only in accordance with manufacturer's use directions and under conditions that do not contaminate food or constitute a hazard.

(13) **Food service hand-washing facilities.** Separate hand-washing facilities equipped with hot and cold running water with a mixed-valve faucet are provided in the food preparation area in any facility licensed or remodeled after October 1, 2001 and have a minimum of 100 degrees Fahrenheit at hand-washing sinks. In cottage-type and domestic type residential housing licensed prior to July 11, 1978, hand-washing facilities in a bathroom on the same floor as the kitchen are deemed convenient and adequate.

(A) Dispensed cleansing soap or detergent and sanitary towels, or other hand-drying devices are provided.

(B) Facilities are kept clean and in good repair.

(C) Food preparation and dishwashing sinks are not used for hand-washing purposes.

(14) **Food preparation and service areas.** Food preparation and service areas meet the requirements listed in this paragraph.

(A) **Floors.** The floor surface in all rooms or areas in which food is stored or prepared is of smooth, non-absorbent materials.

(i) Unsealed concrete and carpet are not permitted.

(ii) Floors are constructed so that they are easily cleaned and are kept in good repair.

(B) **Walls and ceilings.** Walls and ceilings, in areas in which food is prepared or utensils or hands are washed, are kept in good repair, easily cleaned, and have washable surfaces up to the highest level reached by splash or spray.

(C) **Lighting.** The requirements addressing lighting are contained in this subparagraph.

(i) All areas in which food is prepared or stored, as well as hand-washing areas, toilet rooms, and garbage and rubbish storage areas, are lit as per International Electrical code.

(ii) All lighting fixtures are shielded.

(D) **Ventilation.** Rooms are properly ventilated as per International Plumbing Code.

(i) All rooms have sufficient ventilation to keep them free from heat, steam, vapors, obnoxious odors, smoke, and fumes.

(ii) Ventilation systems comply with applicable state and local fire prevention requirements and, when ventilated to the outside air, discharge in such a manner as to not create a nuisance.

(E) **Housekeeping.** All areas where food is prepared and served are kept clean, neat, and free from litter and rubbish.

(i) Cleaning operations are conducted in a manner that minimizes contamination of food and food-contact surfaces.

(ii) Soiled linens, coats, and aprons are kept in containers until removed for laundering.

- (iii) Live birds or animals are not allowed in any area used for food service operations.

Section 165. Construction and fire safety

The requirements in this Section establish minimum construction and fire safety requirements for residential child care facilities, which are enforced by the State Fire Marshal.

(1) **Approval of residential facilities.** The Office of the State Fire Marshal is responsible for approval of all residential child care facilities.

(A) Current state-adopted codes [74 O.S § 317 through 324.21] are enforced for all new construction including additions or major alterations of existing licensed facilities and conversion of buildings not previously licensed as residential child care facilities.

(B) Licensed facilities in operation on the effective date of these regulations comply with the construction and fire safety codes applicable to the issuance of their license.

(C) Clarification regarding codes and enforcement is available from the Office of the State Fire Marshal.

(2) **Minimum construction requirements.** The facility complies with the construction requirements described in (A) - (E) of this subsection.

(A) Architectural plans are submitted to and approved by Licensing Services and the State Fire Marshal or designee before proceeding with construction.

(B) When choosing the site for new construction, special consideration is given to available water for fire fighting and access to all areas of the building for rescue.

(C) Facilities meet local building, electrical, plumbing, and fire prevention codes. In localities where a building code or Life Safety Code does not exist, construction conforms to the current state-adopted codes.

(D) Building separation and property line setbacks meet requirements of local ordinances. In the absence of such ordinances, the state adopted building code applies.

(E) A mobile home, whether mobile or permanently situated, is not permitted as a residential child care facility.

(3) **Administration.** The facility complies with the requirements contained in (A) - (E) of this subsection.

(A) **Fire protection plan.** The facility has a written fire protection plan for all persons in the event of fire and evacuation from the building. The plan is the basis of regular fire drills and includes procedures followed under all specific types of emergencies.

(i) All supervisory personnel have a copy of the facility's fire protection plan.

(ii) Each employee is familiar with locations and use of portable fire extinguishers.

(iii) Each staff member is familiar with evacuation procedures and routes.

(B) **Evacuation plan.** Evacuation plans are posted in prominent locations on all floors in each building.

(C) **Emergency numbers.** Emergency telephone numbers are conspicuously posted at the telephone.

- (D) **Housekeeping.** The facility:
- (i) prohibits areas under stairs from being used for combustible storage; and
 - (ii) ensures that accumulations of papers or trash are removed from the building as soon as possible.
- (4) **Exits.** The residential child care facility complies with the requirements pertaining to exits described in (A) - (B) of this paragraph.
- (A) Exits are not blocked.
 - (B) Means of exit are adequately lighted by natural or electric light at all times to permit safe evacuation of occupants.
- (5) **Fire protection equipment.** Equipment is installed and maintained as required by codes adapted by the Office of the State Fire Marshal.
- (A) **Smoke detectors.** The residential child care facility has operable smoke detectors located according to NFPA 72 as adapted by the state fire marshal. The detector is powered by battery, alternating current, or other power source. Upon inspection, a battery operated detector found inoperable is replaced immediately with an operable system. For facilities licensed after October 1, 2001 a hard-wired system is installed.
 - (B) **Fire extinguishers.** Fire extinguishers are provided in accordance with current adapted NFPA standard #10 "Portable Fire Extinguisher."
 - (i) All fire extinguishers are inspected, serviced, and tagged annually by a trained individual.
 - (ii) Disposable fire extinguishers are prohibited.
- (6) **Maintenance of equipment.** All safety equipment, including emergency lighting, commercial stove hoods, sprinkler systems, and any other required safety equipment, is maintained in compliance with current codes or manufacturer's instructions.
- (7) **Interior.** The interior of the facility complies with the requirements contained in (A) - (F) of this subsection.
- (A) Changes to interior finish or floor covering meet current codes regarding flame spread rating.
 - (B) Furnishings or decorations with an explosive or highly flammable characteristic are prohibited.
 - (C) Use of open-face space heaters, unvented space heaters, and portable heating devices is prohibited.
 - (D) Heaters, including floor furnaces, are enclosed by a guard when necessary to protect children from hot surfaces.
 - (E) The use of temporary wiring or extension cords as permanent wiring is strictly prohibited. Extension bars are acceptable if there is documentation that a circuit breaker or fuse is built into the unit.
 - (F) Electrical outlets, which are not in use, are covered with safety devices when children under five years of age are in care.
- (8) **Exterior.** Exterior areas are free of trash and tall grass.

Section 165.1. Safety and emergency preparedness requirements

The requirements in this Section establish safety and emergency preparedness requirements for residential child care facilities.

(1) **Fire drills.** Residents participate in fire exit drills performed at least six times per year on a bimonthly basis with a minimum of two drills conducted at night during normal sleeping hours.

(2) **Tornado drills.** Residents participate in tornado drills conducted each spring.

(3) **Fire and tornado drill records.** Facilities maintain a log of all fire and tornado drills.

(4) **High risk activities.** If the facility allows residents to engage in activities, such as horseback riding, archery, gymnastics, karate, or using firearms, a written plan which ensures the health and safety of residents is maintained on file at the facility. The plan includes:

(A) qualifications of the supervisor of the activity;

(B) qualifications of any other staff members necessary for proper supervision;

(C) number of staff members needed to supervise the activity;

(D) conditions under which a resident may participate in the activity, such as age and the skill of the resident;

(E) any necessary special equipment, for example, life jackets or helmets, including the supply and condition; and

(F) safety practices followed.

(5) **Water activities.** If residents engage in recreational water activities, safety precautions are followed. A person with a current water safety certificate or comparable certificate is in attendance at all times. This person is in the water or is prepared to enter the water at any time.

(6) **Disaster planning.** The facility has a written plan for reporting and protecting from outside threats, and evacuating in case of fire, flood, tornado, blizzard, power failure, or other natural or man-made disaster that could create structural damage to the facility or pose health hazards.

(7) **Sleep positioning.** To reduce the risk of Sudden Infant Death Syndrome infants younger than 12 months of age are placed on their back for sleeping unless there is a medical reason documented by a doctor that the infant should not sleep in this position.

(A) Documentation is maintained at the facility.

(B) Infants who are able to turn themselves over are placed initially on their back for sleeping but allowed to sleep in a position they prefer.

(C) Infant and toddler's heads and faces are not covered.

Section 166. Requirements for regimented residential programs

(a) **Regimented residential programs.** A regimented residential program is a military style training program under which residents are subject to a controlled and regimented environment that affirms dignity of self and respect for others, and includes physical training and discipline.

(b) **Requirements.** Regimented residential programs comply with the rules contained in Section 145 through Section 165.1, except as otherwise provided in this Section.

(c) **Administrative policy.** Regimented residential programs comply with the rule contained in Section 152(d) regarding developing policies. In addition, policy includes guidelines for physical exercise, which ensures the health and safety of residents.

(d) **Executive director qualifications.** The person responsible for program supervision, whether the executive director or the program director, is exempt from meeting the qualifications contained in Section 153.1(d)(2). One of the qualifications listed in (1) - (3) of this subsection, however, must be met:

(1) a bachelor's degree in a behavioral science or other related area of study from an accredited college or university and three years experience in children's services. Military experience may substitute for up to two years of experience in children's services;

(2) a master's degree in social work, psychology, guidance and counseling, sociology, child development, human relations, or other related area of study from an accredited college or university, and two years experience in children's services. Military experience may substitute for up to one year of experience in children's services; or

(3) a doctorate in medicine, social work, psychology, guidance and counseling, sociology, child development, human relations, or other related area of study from an accredited college or university and one year of experience in children's services. Military experience may substitute for experience in children's services.

(e) **Supervision of residents.** Regimented residential programs comply with the rule contained in Section 153.2 regarding supervision of residents. When adjudicated juveniles are in care, however, the facility maintains a staff-child ratio of one to eight (1:8) during waking hours and one to twelve (1:12) during sleeping hours. Staff meeting the 1:12 ratio remain awake.

(f) **Physical examination.** Regimented residential programs are exempt from the rule contained in Section 154(a)(5) regarding physical examinations within 30 days following admission. Prior to beginning intense physical exercise, however, each child has a physical examination by a health professional who states that the child may participate in a high-impact program.

(g) **Physical facility.** Regimented residential programs are exempt from the rule contained in Section 157(b)(2) - (3) pertaining to square footage in sleeping rooms. Facilities, however, meet the requirements contained in (1) - (2) of this subsection.

(1) Each sleeping room intended for one resident contains 80 square feet.

(2) Facilities using barracks for sleeping have a minimum of 40 square feet per resident with no less than three feet between beds.

(h) **Staff sleeping quarters.** A regimented residential program operating with barracks-type sleeping rooms is exempt from the rule contained in Section 157(f)

pertaining to separate sleeping quarters for staff if the staff in the sleeping quarters is the same gender as the residents.

(i) **Toilets, sinks, and bathtubs or showers.** Regimented residential programs are exempt from the rules contained in Section 157(h)(1). Programs, however, meet the requirements contained in (1) - (3) of this subsection.

(1) At least one flush toilet is available for each 12 males in male facilities and eight females in female facilities.

(2) At least one wash basin is available for each 12 residents.

(3) At least one shower or bathtub is available for each eight residents.

Section 167. Requirements for children's shelters

(a) **Children's shelter.** A children's shelter is a non-secure public or private residential program that provides temporary care and supervision for children.

(b) **Requirements.** Children's shelters comply with the rules contained in Section 145 through Section 165.1, except as otherwise provided in this section.

(c) **Tuberculin test.** Children's shelters comply with the rules contained in Section 153.1(g)(2) regarding tuberculin tests.

(d) **Supervision of residents.** Children's shelters are exempt from the rules contained in Section 153.2 pertaining to supervision of residents. The shelter, however, employs an adequate number of staff as child care workers to meet the needs of the residents. All staff members on duty are awake and accessible at all times.

(1) For residents ages 0 to five years of age, the facility maintains a ratio of one staff person for four residents (1:4).

(2) For residents ages six to 11 years of age, the facility maintains a ratio of one staff person for six residents (1:6).

(3) For residents ages 12 to 18 years of age, the facility maintains a ratio of one staff person for eight residents (1:8).

(e) **Admission.** Children's shelters are exempt from the rules contained in Section 154(a)(1)-(5) regarding admission. Shelters, however, meet the requirements contained in (1) - (7) of this subsection in addition to Section 154 (a)(5) - (7).

(1) Persons 18 years of age and older are not admitted to a shelter. A shelter may continue to serve a person who entered the shelter prior to his or her eighteenth birthday through the completion of his or her placement plan.

(2) The shelter admits only those children for which it has an established operational program.

(3) If a child is admitted by anyone other than a parent or custodian, the shelter documents the attempts to contact the parent or custodian.

(4) Each child and parent or custodian entering the shelter is asked if the child is in good health and taking any type of medication.

(5) Each child in a shelter receives a health screening by an RN or LPN by the child's eighth day of care. However, a documented medical exam performed within the 12 months prior to admission is acceptable when a child is transferred from another licensed facility.

(6) If a resident shows symptoms of illness or injury, the parent or custodian is notified for appropriate action.

(7) Upon admission, the facility documents:

(A) child's name, date of birth, Social Security number, sex, race, tribal affiliation, address, and telephone number;

(B) name of parents or custodian, address, phone number, and place of employment;

(C) date and time of admission;

(D) name, phone number, and address of person responsible for bringing the child to the shelter;

(E) reason for referral;

(F) name of staff person on duty at admission;

(G) school the child attends and grade;

(H) description of the child's physical and emotional condition; and

(I) comments that relate to any circumstances concerning the child's placement.

(f) **Service plan.** Children's shelters are exempt from the rules contained in Section 154(b)(1) regarding service plans. A written service plan is developed and documented for each resident within three days of admission. Children's shelters meet the guidelines contained in Section 154(b)(1)(A) - (B).

(g) **Physical facility.** Children's shelters are exempt from the rules contained in Section 157(b) regarding square footage. Shelters, however, meet the requirements contained in (1) - (5) of this subsection.

(1) Habitable living areas are provided as stated in (2) - (5) of this subsection. This does not include offices, bathrooms, hallways, kitchen, laundry, furnace, utility, or office areas.

(2) There is a total of 100 square feet of habitable living area per resident, including sleeping space.

(3) Each sleeping room for more than one resident contains 50 square feet per occupant.

(4) Each sleeping room intended for one resident contains 80 square feet.

(5) All areas counted as habitable space have a minimum ceiling height of seven feet, six inches.

Section 168. Requirements for residential treatment facilities

(a) **Residential treatment facilities.** A residential treatment facility cares for children under 24-hour medical care who have emotional, psychological, or mental disorders.

(b) **Requirements.** The facility complies with the rules contained in Section 145 through Section 165.1, except as otherwise provided in this Section.

(c) **Criminal background investigations.** Hospitals contracting with the Oklahoma Health Care Authority (OHCA) are exempt from submitting a criminal history review request to Oklahoma Child Care Services (OCCS) licensing records office. Documentation of all criminal history records and Child Care Restricted Registry searches are maintained at the hospital and available for review by OCCS.

(d) **Personnel.** The facility:

- (1) complies with the rules regarding personnel contained in Section 153.1; and
- (2) employs a psychiatrist and adequate medical staff to meet the medical needs of the residents.

(e) **Supervision of residents.** The facility is exempt from the rules contained in Section 153.2 regarding supervision of residents.

(1) The facility employs a sufficient number of staff as child care workers to adequately supervise and meet the needs of residents. Staff members are awake and accessible at all times.

(2) The facility maintains a ratio of one staff person for:

- (A) six residents (1:6) during awake hours; and
- (B) eight residents (1:8) during sleeping hours.

(3) When the admission to a psychiatric residential treatment facility is ordered by a medical doctor, the doors may be locked.

(f) **Admission.** A health professional reviews and approves the admission assessment within 24-hours of admission.

(g) **Service planning.** The facility is exempt from the rules contained in Section 154(b)(1) and (2) regarding service plans.

(1) The facility meets the requirements contained in:

- (A) (1) and (2) of this subsection; and
- (B) Section 154(b)(1)(A) and (B) and (b)(2)(B) and (C).

(2) A written service plan for each resident is:

- (A) developed and documented within four working days after admission; and
- (B) reviewed at least every five to nine calendar days thereafter unless approved by OHCA.

(h) **Portable pools.** The facility is exempt from the rules contained in Section 163(14)(B). Therapeutic water activities are permitted when prescribed by attending physicians, included in a treatment plan and provisions are made to insure hygienic practices. When portable pools are used as part of a therapeutic activity children are directly supervised at all times. Portable pools are:

- (1) no larger than six feet in diameter; and
- (2) contain water no more than six inches in depth.

(i) **Discharge procedures.** The facility meets the rules contained in Section 154(d) regarding discharge procedures. The facility:

- (1) supplies the resident with a prescription for two weeks' worth of medication, if appropriate, upon discharge; and

(2) documents in the resident's record at least one scheduled outpatient follow-up contact within two weeks of discharge.

(j) **Visitation.** The facility is exempt from the rules contained in Section 154.1(b)(2) regarding visitation restriction reviews. Reasons for visitation restrictions are:

- (1) explained to the resident and parents or custodian;
- (2) documented in the resident's records; and
- (3) reviewed every seven days.

(k) **Behavior management.** The facility is exempt from the rules contained in Section 154.2(b)(7), (10) and (11) regarding seclusion and restraint. If the facility uses seclusion and restraint, it must meet the requirements contained in (1) through (5) of this subsection.

(1) **Seclusion.** Seclusion may only be used when less restrictive interventions, according to facility policy, have been attempted or when an immediate intervention is required to protect the resident, staff member, or others. Resident is released from seclusion when resident is no longer deemed a risk to self or others. A written incident report is completed within 24-hours following each use of seclusion.

(A) Seclusion is used only with specific verbal authorization of a health professional. The authorization must be written and signed by a health professional within 24-hours.

(B) While in seclusion, a staff member continuously monitors the resident, either in person or with audiovisual equipment, and personally checks the resident's well-being every 15 minutes. The resident receives appropriate medical and psychological services.

(C) The resident has reasonable access to toilet facilities and to all scheduled meals while in seclusion.

(D) As soon as the resident sufficiently gains control and is no longer a serious and immediate danger, the resident is released from seclusion.

(i) Residents age ten years and older do not remain in seclusion longer than two hours or a total of six non-consecutive hours within any 24-hour period.

(ii) Residents age nine years and younger do not remain in seclusion longer than one hour within any 24-hour period.

(2) **Seclusion room.** A room used for seclusion includes:

(A) at least 60 square feet and a ceiling height of seven feet, six inches;

(B) a safety glass window, mirror, or camera that allows for full observation of the seclusion room;

(C) no hardware or furnishings that obstruct observing the child at all times;

(D) no hardware, equipment, or furnishings that present a physical hazard or suicide risk;

(E) means for natural or mechanical ventilation;

(F) means for maintaining a temperature between 65 and 85 degrees Fahrenheit;

(G) lighting for all areas of the room; and

(H) an automatic fire suppression system.

(3) **Mechanical restraint.** Mechanical restraint may only be used when less restrictive interventions, according to facility policy, have been attempted or when an immediate intervention is required to protect the resident, staff member, or others. Resident is released from mechanical restraint when resident is no longer deemed a

risk to self or others. A written incident report is completed within 24-hours following each use of mechanical restraint.

(A) Mechanical restraint is used only with specific verbal authorization of a health professional. The authorization must be written and signed by the health professional within 24-hours.

(B) As soon as the resident sufficiently gains control and is no longer a serious and immediate danger, the resident is released from mechanical restraint.

(i) Residents age ten years and older do not remain in mechanical restraint longer than two hours.

(ii) Residents age nine years and younger do not remain in mechanical restraint longer than one hour.

(C) Mechanical restraint is used on the resident in a comfortable and humane manner.

(i) Resident's hands are not restrained to his or her feet.

(ii) Mechanical restraints are padded or cushioned.

(D) A staff member continuously monitors, either in person or with audiovisual equipment, the resident and personally checks the resident's well-being every 15 minutes.

(E) The resident receives appropriate medical and psychological services.

(4) **Chemical restraint.** Chemical restraint may only be used when less restrictive interventions, according to facility policy, have been attempted or when an immediate intervention is required to protect the resident, staff member, or others. A written incident report is completed within 24-hours following each use of chemical restraint.

(A) Chemical restraint is used only with specific verbal authorization of a health professional. The authorization must be written and signed by the health professional within 24-hours.

(B) Chemical restraint is administered to the resident in a humane manner.

(C) A staff member continuously monitors, either in person or with audiovisual equipment, the resident and personally checks the resident's well-being every 15 minutes.

(D) The resident receives appropriate medical and psychological services.

(5) **Seclusion and restraint log.** A seclusion and restraint log is kept, and a report containing all information in the log is part of the resident's record. The log includes:

(A) date and time of placement in seclusion or in restraint;

(B) name of the health professional authorizing the use of restraint or seclusion;

(C) reason for the use of restraint or seclusion and other behavior management techniques attempted;

(D) observation times, including a description of the resident's activity at each observation, and the signature of the person observing the resident; and

(E) time the resident is released from seclusion or restraint.

Section 169. Requirements for secure care facilities

(a) **Secure care facility.** A secure care facility is a facility that cares for and supervises adjudicated children in a building in which voluntary entering and exiting is prohibited through the use of internal or exterior locks or through secure fencing around the perimeter.

(b) **Requirements.** Secure care facilities are required to meet the rules contained in Section 145 through Section 165.1, except as otherwise provided in this Section.

(c) **Supervision of residents.** Secure care facilities meet the requirements contained in Section 153.2 regarding supervision of residents. In addition, staff members remain awake at all times.

(d) **Searches and contraband.** Secure care facilities meet the requirements contained in Section 152(d) regarding required policies. In addition, secure care facilities have written policy and procedure governing searches and control of contraband.

(1) Facility policy and procedure includes, but is not limited to:

- (A) control of contraband;
- (B) searches for contraband;
- (C) property searches;
- (D) searches of the facility; and
- (E) visitor searches.

(2) Residents and visitors are notified that they are subject to search.

(3) No resident is searched beyond what is necessary to maintain proper security.

(4) Searches are conducted by a staff member of the same gender as the resident or visitor being searched.

(e) **Door security.** Secure care facilities meet the requirements for door security contained in (1) - (4) of this subsection.

(1) All doors are kept locked that are security perimeter entrances, exterior doors, and doors that the facility administrator determines should be locked. These doors are unlocked only for admission or exit of residents, employees, visitors, or in case of an emergency.

(2) Doors to vacant units, unoccupied areas, and storage rooms are locked when not in use.

(3) Staff members know what doors must be locked and under what circumstances the doors are opened.

(4) Once a door is locked, it is checked to ensure it is secured.

(f) **Key control.** A secure care facility has a key-control system that includes:

(1) a log, which is available to licensing staff for review, to record the number of keys given out, the location of the lock, the number of keys to that lock, and the names of the employees possessing keys;

(2) a central administrative area from where the keys are issued;

(3) a manner of storage that permits easy determination of either the absence or the presence of the keys;

(4) labeling of all keys and maintenance of at least one duplicate key for each lock; and

(5) fire and emergency keys that are readily accessible.

(g) **Weapons.** Weapons are not permitted beyond a designated area.

(h) **Behavior management.** Secure care facilities are exempt from the rules contained in Section 154.2(b)(7) and (11) regarding seclusion and mechanical restraint. Facilities that use seclusion and mechanical restraint meet the requirements contained in (1) - (4) of this subsection.

(1) **Seclusion.** Seclusion may only be used when less restrictive interventions, according to facility policy, have been attempted or when an immediate intervention is required to protect the resident, staff member, or others, or prevent escape. Resident is released from seclusion when resident is no longer deemed a risk to self or others. A written incident report is completed within 24-hours following each use of seclusion.

(A) Seclusion is used only with specific authorization of the executive director, the administrative person in charge, or a health professional.

(B) When a resident is placed in seclusion, an adult staff member continuously monitors the resident, either in person or through audiovisual equipment, and personally checks the resident's well-being every 15 minutes. The resident receives appropriate medical and psychological services.

(C) The resident has reasonable access to toilet facilities and to all scheduled meals while in seclusion.

(D) As soon as the resident sufficiently gains control and is no longer a serious and immediate danger, the resident is released from seclusion. Residents age ten and older do not remain in seclusion longer than three hours or a total of six non-consecutive hours within any 24-hour period. Residents age 9 and under do not remain in seclusion longer than one hour within any 24-hour period.

(2) **Seclusion room.** A room used for seclusion includes:

(A) at least 60 square feet and a ceiling height of seven feet, six inches;

(B) a safety glass window, mirror, or camera that allows for full observation of the seclusion room;

(C) no hardware or furnishings that obstruct observing the child at all times;

(D) no hardware, equipment, or furnishings that present a physical hazard or suicide risk;

(E) means for natural or mechanical ventilation;

(F) means for maintaining a temperature between 65 and 85 degrees Fahrenheit;

(G) lighting for all areas of the room;

(H) an automatic fire suppression system; and

(I) time resident is released from seclusion.

(3) **Mechanical restraint.** Mechanical restraint may only be used when less restrictive interventions, according to facility policy, have been attempted or when an immediate intervention is required to protect the resident, staff member, or others.

Mechanical restraint may be used when transporting a resident in order to prevent escape, to prevent self-injury, to prevent injury to others, to prevent destruction of property, or to prevent inciteful behavior that jeopardizes security.

(A) Mechanical restraint is used on the resident in a comfortable and humane manner.

(B) Resident's hands are not restrained to his or her feet.

(C) Resident is not restrained to an immovable object.

(D) Resident is released from mechanical restraint when resident is no longer

deemed a risk to self, others, or at imminent risk of escape.

(E) A written incident report is completed within 24 hours following each use of mechanical restraint.

(4) **Seclusion and mechanical restraint log.** A seclusion and mechanical restraint log is kept, and a report containing all information in the log is part of the resident's record. The log includes:

(A) the date and time of placement in seclusion or the use of mechanical restraint;

(B) the name of the person authorizing the use of seclusion or mechanical restraint;

(C) the reason for the use of mechanical restraint or seclusion and other behavior management techniques attempted;

(D) observation times, including a description of the resident's activity at each observation, and the signature of the person observing the resident; and

(E) time resident is released from seclusion or mechanical restraint.

(i) **Emergency numbers.** A secure care facility is exempt from the rules contained in Section 165(3)(C), regarding posting of emergency telephone numbers. Emergency telephone numbers are readily accessible to staff members.

SUPPLEMENT I

OKLAHOMA CHILD CARE FACILITIES LICENSING ACT

Oklahoma Statute
10 O.S. Section 401 through 418
(Amended November 1, 2010)

Section 401 - Purpose and Policy - Minimum Standards

- A. Sections 401 through 418 of this title shall be known and may be cited as the "Oklahoma Child Care Facilities Licensing Act".
- B. It is the declared purpose and policy of the Oklahoma Child Care Facilities Licensing Act, to:
 - 1. Ensure maintenance of minimum standards for the care and protection of children away from their own homes;
 - 2. Encourage and assist the child care facility toward maximum standards; and
 - 3. Work for the development of sufficient and adequate services for child care through joint work of public, private and voluntary agencies. Whenever possible, child care facilities should help to preserve and restore family life for children.
- C. In order to provide care for children in child care facilities, a license shall be obtained from the Department of Human Services, which is issued on the basis of meeting minimum standards which are essential for the health and welfare of the child or children placed for care with such agencies and individuals.
- D. The Child Care Facilities Licensing Division within the Department of Human Services shall work with representatives from municipalities to develop a single child care licensure procedure for use by state and local entities.

Section 402 - Definitions

As used in the Oklahoma Child Care Facilities Licensing Act:

- 1. "Child" or "minor" means any person who has not attained the age of eighteen (18) years;
- 2. "Child care center" means a facility which provides care and supervision for children and which operates for more than thirty (30) hours per week;
- 3. "Child care facility" means any public or private child care residential facility, child-placing agency, foster family home, child care center, part-day child care program, school-age program, summer day camp, family child care home, or large family child care home providing either full-time or part-time care for children away from their own homes;
- 4. "Child-placing agency" means an agency that arranges for or places a child in a foster family home, adoptive home, or independent living program;
- 5. "Foster family home" means the private residence of a family which provides foster care services to a child, and includes a specialized foster home, a therapeutic foster family home, or a kinship care home;
- 6. "Foster parent eligibility assessment" includes a criminal background investigation, including, but not limited to, a national criminal history records search based upon the submission of fingerprints, a home assessment, and any other assessment required

SUPPLEMENT I

by the Department of Human Services, the Department of Juvenile Justice, or any child-placing agency pursuant to the provisions of the Oklahoma Foster Care and Out-of-Home Placement Act. A foster parent eligibility assessment shall be similar to the procedures used by the Department of Public Safety for determining suitability of an individual for employment as a highway patrol officer;

7. "Commission" means the Commission for Human Services, the policymaking and general supervisory body of the Department;
8. "Department" means the Department of Human Services;
9. "Division" means the section within the Department that is assigned responsibilities pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act;
10. "Family child care home" means a family home which provides care and supervision for seven or fewer children for part of the twenty-four-hour day. The term "family child care home" shall not include informal arrangements which parents make independently with neighbors, friends, and others, or with caretakers in the child's own home;
11. "Full-time care" means continuous care given to a child beyond a minimum period of twenty-four (24) hours;
12. "Large family child care home" means a residential family home which provides care and supervision for eight to twelve children for part of the twenty-four-hour day;
13. "Part-day child care program" means a facility that provides care and supervision for children and that operates for more than fifteen (15) and up to thirty (30) hours per week; and
14. "Residential child care facility" means a twenty-four-hour residential facility where children live together with or are supervised by adults who are not their parents or relatives.

Section 403 - Exemptions

- A. The provisions of the Oklahoma Child Care Facilities Licensing Act shall not apply to:
 1. Care provided in a child's own home or by relatives;
 2. Informal arrangements which parents make with friends or neighbors for the occasional care of their children;
 3. Programs in which school-aged children are participating in home-schooling;
 4. Programs that serve children three (3) years of age and older and that are operated during typical school hours by a public school district;
 5. Programs that serve children three (3) years of age and older and that are operated during typical school hours by a private school that offers elementary education in grades kindergarten through third grade;
 6. Summer youth camps for children who are at least five (5) years of age, that are accredited by a national standard-setting agency or church camp accreditation program;
 7. Programs in which children attend on a drop-in basis and parents are on the premises and readily accessible;
 8. A program of specialized activity or instruction for children that is not designed or intended for child care purposes including, but not limited to, scouts, 4-H clubs and summer resident youth camps, and single-activity programs such as academics, athletics, gymnastics, hobbies, art, music, dance and craft instruction;
 9. Any child care facility that provides care and supervision for fifteen (15) or fewer hours per week;

SUPPLEMENT I

10. Facilities whose primary purpose is medical treatment;
 11. Boarding schools that have education as their primary purpose and that are recognized as accredited by the State Board of Education. To be exempt, such programs shall:
 - a. have classroom facilities that are not used for residential living,
 - b. not have been granted nor have assumed legal custody of any child attending the facility, and
 - c. adhere to standard educational holiday and seasonal recess periods to permit students reasonable opportunities to return to their primary places of residence with parents or legal guardians;
 12. Day treatment programs and maternity homes operated by a licensed hospital;
 13. Juvenile facilities certified by the Office of Juvenile Affairs or certified by any other state agency authorized by law to license such facilities.
- B. The provisions of the Oklahoma Child Care Facilities Licensing Act shall be equally incumbent upon all private and public child care facilities.

Section 404 - Minimum Requirements and Desirable Standards

- A. The Department of Human Services shall appoint advisory committees of representatives of child care facilities and others to prepare minimum requirements and desirable standards for promulgation by the Commission for Human Services. Committee members shall be appointed for a three-year term, with a two-consecutive-term limit. A majority of any committee appointed to prepare requirements and standards for child care facilities shall be representatives of child care facilities.
- B. Child care facilities shall not allow children to be left alone in the care of any person under eighteen (18) years of age.
- C. The Commission shall promulgate rules establishing minimum requirements and desirable standards as may be deemed necessary or advisable to carry out the provisions of the Oklahoma Child Care Facilities Licensing Act.
- D. Such rules shall not be promulgated until after consultation with the State Department of Health, the State Department of Education, the Oklahoma State Bureau of Investigation, the State Fire Marshal, and any other agency deemed necessary by the Commission. Not less than sixty (60) days' notice, by regular mail, shall be given to all current licensees before any changes are made in such rules.
- E. In order to improve the standards of child care, the Department shall advise and cooperate with licensees, the governing bodies and staff of licensed child care facilities and assist the staff through advice of progressive methods and procedures, and suggestions for the improvement of services.
- F. The Department may participate in federal programs for child care services, and enter into agreements or plans on behalf of the state for that purpose, in accordance with federal laws and regulations.

SUPPLEMENT I

Section 404.1 - Criminal History Records Search and Child Care Worker Registry for Person Applying to Establish or Operate Child Care Facility

- A. 1. a. Except as otherwise provided by subsection B of this section, prior to the issuance of a license, the Department of Human Services shall require a criminal history records search, conducted by the Oklahoma State Bureau of Investigation, and a records search of the Oklahoma child care worker registry established in Section 405.3 of this title for any person making application to establish or operate a child care facility.
- b. Prior to the issuance of a permit or license, the Department shall conduct a records search of the Oklahoma State Courts Network for any person making application to establish or operate a child care facility.
- c. Prior to the issuance of a permit or license, the Department shall conduct a records search of the Oklahoma State Courts Network for all employees and persons eighteen (18) years of age or older residing in a child care center, family child care home, large family child care home, part-day program, school-age program, or summer day camp.
2. a. Prior to the employment of any person in a child care facility, the facility shall submit to the Department of Human Services division responsible for child care licensing:
 - (1) criminal history records search conducted by the Oklahoma State Bureau of Investigation,
 - (2) documentation of a records search of the Oklahoma child care worker registry, and
 - (3) a request for the Department to conduct a records search of the records of the Oklahoma State Courts Network.
- b. Hospitals contracting with the Oklahoma Health Care Authority and complying with the records searches required by this section shall be exempt from the requirement to submit such documentation to the Department. Documentation of records searches shall be maintained at the hospital and shall be available for review by the division of the Department responsible for child care licensing.
- c. Prior to allowing any person eighteen (18) years of age or older to reside in a child care center, family child care home, large family child care home, part-day program, school-age program, or summer day camp program, the facility shall submit to the Department of Human Services division responsible for child care licensing the following:
 - (1) a criminal history records search conducted by the Oklahoma State Bureau of Investigation,
 - (2) documentation of a records search of the Oklahoma child care worker registry, and
 - (3) a request for the Department to conduct a records search of the Oklahoma State Courts Network.
3. Once a facility has submitted an original document from the Oklahoma State Bureau of Investigation to the Department, a copy of that exact document shall be sufficient to satisfy any further request for that document. The Department may promulgate rules regarding the electronic submission of required documents.

SUPPLEMENT I

4. If the following persons have lived in Oklahoma for less than three (3) years, a criminal history records search shall also be obtained from the authorized agency in the previous states of residence for:
 - a. applicants for a license to operate a child care facility,
 - b. employees of a child care facility, and
 - c. persons age eighteen (18) years or older residing in a child care center, family child care home, large family child care home, part-day program, school-age program, or summer day-camp program.
 5. The Department of Juvenile Justice may directly request national criminal history records searches as defined by Section 150.9 of Title 74 of the Oklahoma Statutes from the Oklahoma State Bureau of Investigation for the purpose of obtaining the national criminal history of any employee or applicant who has resided in Oklahoma for less than three (3) years for which a search is required.
- B. 1. a. On and after September 1, 1998:
- (1) any child-placing agency contracting with a person for foster family home services or in any manner for services for the care and supervision of children shall also, prior to executing a contract, complete:
 - (a) a foster parent eligibility assessment for the foster care provider except as otherwise provided by divisions 2 and 4 of this subparagraph, and
 - (b) a national criminal history records search based upon submission of fingerprints for any adult residing in the foster family home through the Department of Human Services pursuant to the provisions of the Oklahoma Foster Care and Out-of-Home Placement Act, except as otherwise provided by divisions 2 and 4 of this subparagraph,
 - (2) the child-placing agency may place a child pending completion of the national criminal history records search if the foster care provider and every adult residing in the foster family home has resided in this state for at least five (5) years immediately preceding such placement,
 - (3) a national criminal history records search based upon submission of fingerprints to the Oklahoma State Bureau of Investigation shall also be completed for any adult who subsequently moves into the foster family home,
 - (4) provided, however, the Director of Human Services or the Director of the Department of Juvenile Justice, or a designee, may authorize an exception to the fingerprinting requirement for a person residing in the home who has a severe physical condition which precludes such person's being fingerprinted, and
 - (5) any child care facility contracting with any person for foster family home services shall request the Office of Juvenile Affairs to conduct a juvenile justice information system review, pursuant to the provisions of Sections 7302-9.6 and 7302-3.8 of this title, for any child over the age of thirteen (13) years residing in the foster family home, other than a foster child, or who subsequently moves into the foster family home. As a condition of contract, the child care facility shall obtain the consent of the parent or legal guardian of the child for such review.
- b. The provisions of this paragraph shall not apply to foster care providers having a contract or contracting with a child-placing agency, the Department of Human Services or the Department of Juvenile Justice prior to September 1, 1998.

SUPPLEMENT I

Such existing foster care providers shall comply with the provisions of this section, until otherwise provided by rules of the Commission for Human Services or by law.

2. a. (1) On and after September 1, 1998, except as otherwise provided in divisions (2) and (4) of this subparagraph, prior to contracting with a foster family home for placement of any child who is in the custody of the Department of Human Services or the Department of Juvenile Justice, each Department shall complete a foster parent eligibility assessment, pursuant to the provisions of the Oklahoma Child Care Facilities Licensing Act, for such foster family applicant. In addition, except as otherwise provided by divisions (2) and (4) of this subparagraph, the Department shall complete a national criminal history records search based upon submission of fingerprints for any adult residing in such foster family home.
- (2) The Department of Human Services and Department of Juvenile Justice may place a child pending completion of the national criminal history records search if the foster care provider and every adult residing in the foster family home has resided in this state for at least (5) years immediately preceding such placement.
- (3) A national criminal history records search based upon submission of fingerprints conducted by the Oklahoma State Bureau of Investigation shall also be completed for any adult who subsequently moves into the foster family home.
- (4) The Director of Human Services or the Director of the Department of Juvenile Justice or designee may authorize an exception to the fingerprinting requirement for any person residing in the home who has a severe physical condition which precludes such person's being fingerprinted.
- b. The provisions of this paragraph shall not apply to foster care providers having a contract or contracting with a child-placing agency, the Department of Human Services or the Department of Juvenile Justice prior to September 1, 1998. Such existing foster care providers shall comply with the provisions of this section, until otherwise provided by rules of the Commission for Human Services or by law.
3. Each Department shall provide for a juvenile justice information system review pursuant to Section 7302-3.8 of this title for any child over the age of thirteen (13) years residing in a foster family home, other than the foster child, or who subsequently moves into the foster family home.
- C. The Commission for Human Services or the Board of Juvenile Affairs shall promulgate rules to identify circumstances when a criminal history records search or foster parent eligibility assessment for an applicant or contractor, or any person over the age of thirteen (13) years residing in a private residence in which a child care facility is located, shall be expanded beyond the records search conducted by the Oklahoma State Bureau of Investigation or as otherwise provided pursuant to this section.
- D. 1. The following persons shall not be required to obtain a criminal history records search or a national criminal history records search based upon submission of fingerprints pursuant to this section:
 - a. a parent volunteer who transports children on an irregular basis, and

SUPPLEMENT I

- b. a child residing in a child care center, family child care home, or large family child care home who became an adult during continuous residence at the licensed or approved facility.
- 2. These exemptions shall not preclude the Department from requesting a criminal history records search or requesting a national criminal history records search based upon submission of fingerprints or investigating criminal, abusive or harmful behavior of such persons, if warranted.
- E. Except as otherwise provided by the Oklahoma Children's Code and subsection G of this section, a conviction for a crime shall not be an absolute bar to employment, but shall be considered in relation to specific employment duties and responsibilities.
- F. 1. Information received pursuant to this section by an owner or administrator of a child care facility shall be maintained in a confidential manner pursuant to applicable state or federal law.
- 2. The information, along with any other information relevant to the ability of the individual to perform tasks that require direct contact with children, may be released to another child care facility in response to a request from the child care facility that is considering employing or contracting with the individual unless deemed confidential by state or federal law.
- 3. Requirements for confidentiality and record keeping with regard to the information shall be the same for the child care facility receiving the information in response to a request as those provided for in paragraph 1 of this subsection for the child care facility releasing such information.
- G. 1. A criminal history records search conducted by the Oklahoma State Bureau of Investigation and a national criminal history records search based upon submission of fingerprints shall include a search of Department of Corrections' files maintained pursuant to the Sex Offenders Registration Act.
- 2. a. It shall be unlawful for any person who is required to register pursuant to the Sex Offenders Registration Act to work with or provide services to children or to reside in a child care facility and for any employer who offers or provides services to children to knowingly and willfully employ or contract with, or allow continued employment of or contracting with any person who is required to register pursuant to the Sex Offenders Registration Act. Any person required to register pursuant to the Sex Offenders Registration Act who violates any provision of this act shall, upon conviction, be guilty of a felony punishable by incarceration in a correctional facility for a period of not more than five (5) years and a fine of not more than Five Thousand Dollars (\$5,000.00) or both such fine and imprisonment.
- b. Upon a determination by the Department of any violation of the provisions of this section, the violator shall be subject to and the Department may pursue:
 - (1) an emergency order,
 - (2) license revocation or denial,
 - (3) injunctive proceedings,
 - (4) an administrative penalty not to exceed Ten Thousand Dollars (\$10,000.00), and
 - (5) referral for criminal proceedings.
- c. In addition to the penalties specified by this section, the violator may be liable for civil damages.

SUPPLEMENT I

Section 404.2 - Demarion's Law

This act shall be known and may be cited as "Demarion's Law".

Section 404.3 - Mandatory Liability Insurance Requirement for Child Care Facility

- A. A child care facility shall maintain liability insurance coverage of at least Two Hundred Thousand Dollars (\$200,000.00) for each occurrence of negligence. An insurance policy or contract required under this section shall cover injury to a child due to negligence that occurs while the child is in the care of the child care facility.
- B. The Department of Human Services shall promulgate rules providing for a standard form to be signed and dated by an insurance agent licensed in this state stating that the child care facility has an unexpired and uncanceled insurance policy or contract of at least Two Hundred Thousand Dollars (\$200,000.00) that meets the requirements of this section. This form shall be completed annually and shall be maintained by the child care facility. Upon request, the form shall be made available to the Department to determine compliance with licensing requirements.
- C. Should the child care facility for financial reasons or for lack of availability of an underwriter willing to issue a policy be unable to secure the insurance required under subsection A of this section, should the policy limits be exhausted, or if the child care facility reports self-insurance in accordance with state law the child care facility shall:
 - 1. Post a notice at the facility indicating the facility does not have liability insurance coverage pursuant to this section or reports self-insurance in accordance with state law; and
 - 2. Notify the Department that coverage is not provided or that the facility reports self-insurance according with state law.
- D. The Commission for Human Services shall promulgate rules providing for a standard form for the facility to post which indicates the facility does not carry liability insurance or reports self-insurance in accordance with state law. In no case shall the inability to secure coverage serve to indemnify the child care facility due to negligence.
- E. The insurance policy or contract shall be maintained at all times in an amount as required by this section, except as provided for in subsection C of this section.
- F. The requirements for posting shall not apply to:
 - 1. Licensed child-placing agencies;
 - 2. Licensed residential child care facilities; or
 - 3. Department-certified child care facilities.
- G. The Commission may promulgate rules requiring liability insurance for facilities listed in subsection F of this section.
- H. Failure by a child care facility to comply with the provisions of this subsection is a ground for suspension or revocation of the child care facility license under the Oklahoma Child Care Facilities Licensing Act.

SUPPLEMENT I

Section 405 - License and Permit Requirements for Child Care Facilities - Application – Issuance

- A. No child care facility may be operated or maintained in this state, unless licensed or temporarily authorized by the Department of Human Services, except for the shelters certified by the Oklahoma Commission on Children and Youth pursuant to Section 601.3 of this title; provided, that the Department shall not be required to be licensed, but shall be bound by the standards it prescribes. No new child care facility may be established without the prior approval of the Department, which shall be granted only after the Department is satisfied that the facility will meet minimum standards for a license to operate.
- B. The Department shall not grant approval for a permit, or a license for a new child care facility to receive and care for children until:
 - 1. All requirements for searches of criminal history records and the child care worker registry are met pursuant to subsection A of Section 404.1 of this title; and
 - 2. All required training including, but not limited to, cardiopulmonary resuscitation (CPR), first aid, health and safety training, and minimum education requirements pursuant to licensing requirements have been completed for any person left alone with children.
- C. The incorporation or domestication of a corporation organized for the purpose of operating a child care facility shall not exempt such corporation from compliance with the provisions of this act.
- D. An application for a license shall be made on forms provided by the Department and in the manner prescribed. Temporary authorization may be granted to allow the Department to investigate the activities and standards of care of the applicant. The Department may issue a license once it is satisfied that the applicant meets the requirements as provided in this act. All licenses shall be in force unless revoked as authorized by Section 407 of this title.

Section 405.1 - Comprehensive Oklahoma State Plan for Child Care

- A. The Department of Human Services shall collaborate with other appropriate agencies to develop a comprehensive Oklahoma state plan for child care.
- B. The comprehensive plan shall:
 - 1. Meet all requirements for child care state plans as periodically determined by the United States Department of Health and Human Services Administration for Children and Families Child Care Bureau; and
 - 2. Be submitted to the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Senate on a biannual basis.

SUPPLEMENT I

Section 405.2 - Public Online Database - Licensed Child Care Centers and Child Care Homes

- A. The Commission for Human Services shall promulgate rules to establish and maintain an online database accessible to the public that contains information including, but not limited to:
 - 1. The name, address, and phone number of all licensed child care centers, and the name, city, state and zip code of all child care homes; and
 - 2. A summary of substantiated complaint records and inspection reports generated by the Department of Human Services.
- B. Child care licensing records and inspection reports shall be maintained by the facility and be posted or made available to the past, current, and prospective consumers pursuant to the licensing requirements promulgated by the Commission.

Section 405.3 - Public Online Database - Child Care Worker Registry

- A. On or before July 1, 2010, the Commission for Human Services shall promulgate rules to establish and maintain a child care worker registry, accessible to the public through an on-line database, to address:
 - 1. A procedure for recording persons in the registry resulting from:
 - a. a finding of abuse or neglect, as defined in Section 7102 of Title 10 of the Oklahoma Statutes, by a person when the abuse or neglect occurred to children while in the care of a child care facility,
 - b. a revocation or denial of a child care facility license, and
 - c. a specified criminal history of an individual, as defined by rules promulgated by the Oklahoma Commission for Human Services;
 - 2. A procedure to provide notice and an opportunity for review prior to recording a person in the registry;
 - 3. Disclosure requirements for information in the registry; and
 - 4. A procedure to restrict licensure or employment in a child care facility of any person recorded in the child care worker registry.
- B. The child care worker registry shall include, but not be limited to:
 - 1. The full name of the individual;
 - 2. Information necessary to identify the individual; and
 - 3. The date the individual was recorded in the registry.

Section 406 - Investigations and Visitation

- A. The Department of Human Services shall have authority at any reasonable time to investigate and examine the conditions of any child care facility in which a licensee or applicant hereunder receives and maintains children, and shall have authority at any time to require the facility to provide information pertaining to children in its care.
- B.
 - 1. The State Department of Health may visit any licensee or applicant at the request of the Department to advise on matters affecting the health of children and to inspect the sanitation of the buildings used for their care.
 - 2. The State Fire Marshal may visit any licensee or applicant at the request of the

SUPPLEMENT I

- Department to advise on matters affecting the safety of children and to inspect the condition of the buildings used for their care.
- C. 1. Upon receipt of a complaint against any child care facility alleging a violation of the provisions of the Oklahoma Child Care Facilities Licensing Act, or any licensing standard promulgated by the Commission for Human Services, the Department shall conduct a full investigation. If upon investigation, it is determined that there are reasonable grounds to believe that a facility is in violation of the Oklahoma Child Care Facilities Licensing Act or of any standard or rule promulgated pursuant thereto, the Department shall:
- a. document the complaint,
 - b. provide the complaint allegations in writing to the facility involved and, upon written request by the child care facility, provide a summary of the facts used to evaluate the completed complaint, and
 - c. document the facility's plan for correcting any substantiated violations.
2. If the Department determines there has been a violation and the violation has a direct impact on the health, safety or well-being of one or more of the children cared for by the facility, the Department shall notify the facility and require correction of the violation.
3. The Department shall notify the facility that failure to correct the confirmed violation can result in the revocation of the license, the denial of an application for a license, the issuance of an emergency order or the filing of an injunction pursuant to the provisions of Section 409 of this title.
4. If the facility refuses to correct a violation or fails to complete the plan of correction, the Department may issue an emergency order, revoke the license, or deny the application for a license. Nothing in this section or Section 407 of this title shall be construed as preventing the Department from denying an application, revoking a license, or issuing an emergency order for a single violation of this act, or the rules of the Commission for Human Services as provided in Section 404 of this title.
- D. Upon the completion of the investigation of a complaint against any child care facility alleging a violation of the provisions of the Oklahoma Child Care Facilities Licensing Act or any licensing standard promulgated thereto by the Commission, the Department shall clearly designate its findings on the first page of the report of the investigation. The findings shall state whether the complaint was substantiated or unsubstantiated.
- E. Information obtained by the Department or Oklahoma Child Care Services concerning a report of a violation of a licensing requirement, or from any licensee regarding children or their parents or other relatives shall be deemed confidential and privileged communications, shall be properly safeguarded, and shall not be accessible to anyone except as herein provided, unless upon order of a court of competent jurisdiction. Provided, however, this provision shall not prohibit the Department from providing a summary of allegations and findings of an investigation involving a child care facility that does not disclose identities but that permits parents to evaluate the facility.

SUPPLEMENT I

Section 406 .1 - Indian Tribal Child Care Facility Electing Licensure Under Oklahoma Child Care Facilities Licensing Act - Agreement for State Inspection

- A. If an Indian tribe in this state that operates a child care facility elects to apply for a license for the facility pursuant to the Oklahoma Child Care Facilities Licensing Act, the Department of Human Services, the State Department of Health, and the State Fire Marshal may enter into an agreement with the Indian tribe to allow the state to conduct any inspections of the facility necessary to comply with the licensing provisions of the Oklahoma Child Care Facilities Licensing Act.
- B. As part of the agreement authorizing the state to conduct inspections as provided in this section, the state and the Indian tribe may agree to a payment of a fee by the Indian tribe to the state in an amount not to exceed the reasonable cost to the state to conduct the inspections.

Section 407 - Revocation or Denial of Issuance of License

- A. The Department of Human Services may revoke or deny issuance of the license of any child care facility found to be in violation of any provision of this act or the rules of the Commission for Human Services, as provided in Section 404 of this title.
- B.
 - 1. No license shall be revoked or issuance denied unless and until such time as the licensee or applicant shall have been given at least thirty (30) days' notice in writing of the grounds of the proposed revocation or denial.
 - 2. At the time the facility is given notice in writing of the revocation or denial of a license, the Department shall also advise parents of children attending the facility and the child care resource and referral organization within one (1) business day of such action by verbal, electronic, or written notification and the posting of an announcement in the facility.
 - 3. If the revocation or denial is protested within thirty (30) days of receipt of notice, by writing addressed to the Commission for Human Services, the Commission, or its authorized agency, shall conduct a hearing at which an opportunity shall be given to the licensee or applicant to present testimony and confront witnesses.
 - 4. Notice of the hearing shall be given to the licensee or applicant by personal service or by delivery to the proper address by certified mail, return receipt requested, at least two (2) weeks prior to the date thereof.
 - 5. If notice of the proposed revocation or denial of a license is not protested, the license shall be revoked or denied.
- C.
 - 1. Nothing in this section or Section 406 of this title shall be construed as preventing the Department from taking emergency action as provided by this subsection.
 - 2. For the purposes of this subsection, "emergency" means a situation that poses a direct and serious threat to the health, safety, or welfare of any child cared for by the facility.
 - 3. Whenever the Department finds, after an investigation, that an emergency exists requiring immediate action to protect the health, safety, or welfare of any child cared for by a facility licensed, authorized, or providing unlicensed care except as exempted by the provisions of the Oklahoma Child Care Facilities Licensing Act,

SUPPLEMENT I

the Department may without notice or hearing issue an emergency order stating the existence of such an emergency and requiring that such action be taken as it deems necessary to meet the emergency including, when necessary, removing children from the facility and prohibiting the facility from providing services to children pending a hearing on the matter.

- a. An emergency order shall be effective immediately. Any person to whom an emergency order is directed shall comply with the emergency order immediately but, upon written request to the Department on or before the tenth day after receipt of the emergency order, shall be afforded a hearing on or before the tenth day after receipt of the request by the Department.
 - b. On the basis of such hearing, the Department shall continue the order in effect, revoke it, or modify it.
 - c. Any person aggrieved by the order continued after the hearing provided for in this subsection may appeal to the district court of the area affected within ten (10) days. The appeal when docketed shall have priority over all cases pending on the docket, except criminal cases.
- D. The Department shall establish a process to review the initial determination of the closure of a facility due to an emergency pursuant to the licensing requirements promulgated by the Commission.
- E. The Department shall continue to monitor any facility whose license has been revoked, denied, or who has had an emergency order issued for a period of thirty (30) days after the action becomes final.
- F. In addition to any other remedy authorized by this act, a CLEET-certified officer may issue a citation for a violation of any provision of this act or rules of the Commission for Human Services as provided in Section 404 of this title. The fine shall not be less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for every day the facility maintains and receives children after:
1. An emergency order has been issued; or
 2. An application for a license has been denied or the license has been revoked.
- G. One-half (1/2) of the funds collected pursuant to subsection F of this section shall be deposited in the Quality of Care Development Fund established in Section 10 of this act and one-half (1/2) shall be retained by the law enforcement agency represented by the CLEET-certified officer.

Section 408 – Appeals

- A. Any licensee or applicant aggrieved by the decision of the Department of Human Services under Sections 405 or 407 of this title may, within ten (10) days after the revocation or denial of the license, appeal to the district court of the county in which the child care facility is maintained and operated by filing with the clerk of the court a verified petition. Notice of such appeal shall be served on the Director of the Department within five (5) days of the date of its filing.
- B. The Department shall, within ten (10) days of the service of such notice, file with the clerk of such court a transcript of the proceedings had before it. The district court shall thereupon be vested with jurisdiction to review the proceedings of the Department; provided that, if the Department prevails, the judgment of the district

SUPPLEMENT I

court shall be that the decision of the Department be affirmed, and if the licensee or applicant prevails, the judgment of the court shall be that the revocation be set aside or the license issued or renewed, as the case may be. Pending the hearing of the appeal, the action of the Department revoking or denying the license or the granting thereof shall be stayed; provided, after the filing of an appeal, the district court, upon application by the Department and after an appropriate hearing, may grant a restraining order to enforce the decision of the Department.

Section 409 - Injunction

Any person or child care facility may be enjoined from maintaining and operating such facility for violations of any provisions of this act by suit brought in the name of the state by the Attorney General of Oklahoma or by a county attorney.

Section 410 - Violations - Punishment

Any person or agent, representative, or officer of any child care facility who violates any of the provisions of the Oklahoma Child Care Facilities Licensing Act shall, upon conviction, be deemed guilty of a misdemeanor and punished in accordance with the provisions of Section 10 of Title 21 of the Oklahoma Statutes. Whenever any agent, representative, or officer of any child care facility shall be convicted under authority of this act, such conviction shall be sufficient ground for the revocation of the entity's license.

Section 410.1 - Quality of Care Development Fund

There is established in the State Treasury a revolving fund to be known as the "Quality of Care Development Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all fines collected by the Department of Human Services pursuant to Section 407 of Title 10 of the Oklahoma Statutes and shall, in addition to any other monies made available for such purpose, be available to the Director solely to support the continued improvement of the child care facilities in this state. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

Section 411 - Certificate of Immunization as Condition for Admission to Day Care Facility - Waiver

- A. No person, firm, corporation, partnership or other legal entity operating a day care center or day care home in this state shall cause or permit a minor child two (2) months of age or older to be admitted to such facility unless and until the parent, guardian, or other related person of such child presents certification from a licensed physician or authorized representative of any state or local department of public health that such child has received or will receive immunization at the medically appropriate time against diphtheria, pertussis, tetanus, haemophilus influenzae type B (HIB), measles (rubeola), rubella, hepatitis A, varicella, and poliomyelitis; or presents such certification

SUPPLEMENT I

that the child is likely to be immune as a result of the disease. Provided, however, that in the event the parent, guardian, or other person presenting a child for admission to a day care center or day care home certifies in writing that a family emergency exists, the requirement imposed by this section may be waived for a period not to exceed thirty (30) days. Such certification shall be made prior to the provision of care. No such waiver shall be knowingly permitted more than once for any child.

- B. The State Board of Health, by rule, may alter the list of immunizations required under this section after notice and hearing. Any change in the list of immunizations required shall be submitted to the next regular session of the Legislature and such change shall remain in force and effect unless and until a concurrent resolution of disapproval is passed. Hearings shall be conducted by the State Board of Health, or such officer, agents or employees as the State Board of Health may designate for that purpose. The State Board of Health shall give appropriate notice of the proposed change in the list of immunizations required and of the time and place for hearing. The change shall become effective on a date fixed by the State Board of Health. Any change in the list of immunizations required may be amended or repealed in the same manner as provided for its adoption. Proceedings pursuant to this subsection shall be governed by the Administrative Procedures Act.

Section 412 - Manner and Frequency of Immunizations - Enforcement of Act

- A. The immunizations required by this act, and the manner and frequency of their administration, as prescribed by the State Board of Health, shall conform to recognized standard medical practices in this state. The State Department of Health shall supervise and secure the enforcement of the required immunization program.
- B. The Department of Human Services shall render reasonable assistance to the State Department of Health in the enforcement of the provisions of this act. This assistance shall be in the form of revocation or denial of the license of any facility not in compliance with this act.

Section 413 - Exemptions

Any minor child, through his or her parent or guardian, may submit to the health authority charged with the enforcement of the immunization laws, a certificate of a licensed physician stating that the physical condition of the child is such that immunization would endanger the life or health of the child; or upon receipt of a written statement by the parent or guardian objecting to such immunizations because of religious or other reasons, then such child shall be exempt from the provisions of this act.

Section 414 - Administration of Immunizations - Persons Eligible - Indigent Persons

The immunizations shall be administered by, or under the direction of, a licensed physician, or by any local or state health department. If the parent or guardian is unable to pay, the State Department of Health shall provide, without charge, the immunization materials required by this act.

SUPPLEMENT I

Section 415 - Child with Reportable Contagious Disease to be Excluded from Day Care Facility

Any child afflicted with a reportable contagious disease shall be excluded from attending a day care center or day care home until such time as the period of communicability has elapsed as determined by a licensed physician or health department official. Such exclusion shall be reported to a local health department official.

Section 418 – Authority to obtain evidence – Administration of oaths

When conducting investigations of complaints as provided in this article, the Department of Public Welfare shall have the power to summon any person to appear and produce such books and papers as shall be designated in the summons, and to give testimony under oath concerning the matter and institution under investigation. The Department shall have the power to administer oaths to such persons as may be summoned and to enforce all such powers as are given to notaries public when they are taking depositions.

SUPPLEMENT II

MINIMUM QUANTITIES FOR FOOD BASED MENUS – BREAKFAST

Meal Component	Required			Option
	Ages 1-2	Preschool	Grades K-12	Grades 7-12
Milk (Fluid) <i>As a beverage, on cereal</i>	1/2 cup	3/4 cup	8 fl. oz.	8 fl. oz.
Juice/Fruit/Vegetable <i>Fruit and/or Vegetable; or full-strength fruit juice or vegetable juice</i>	1/4 cup	1/2 cup	1/2 cup	1/2 cup
<i>Select one serving from each of the following components or two from one component:</i>				
Grains/Breads <i>One of the following or an equivalent combination:</i>				
Whole grain or enriched bread	1/2 slice	1/2 slice	1 slice	1 slice
Whole grain or enriched biscuit/roll, muffin, etc	1/2 serving	1/2 serving	1 serving	1 serving
Whole grain, enriched or fortified cereal	1/4 cup or 1/3 oz.	3/4 cup or 1/2 oz.	3/4 cup or 1 oz.	3/4 cup or 1 oz. <i>Plus an additional Serving of one of the grains/bread above</i>
Meat or Meat Alternates:				
Meat/Poultry or fish	1/2 oz.	1/2 oz.	1 oz.	1 oz.
Cheese	1/2 oz.	1/2 oz.	1 oz.	1 oz.
Eggs (large)	1/2	1/2	1/2	1/2
Peanut butter or other nut or seed butters	1 Tablespoon	1 Tablespoon	1 Tablespoon	1 Tablespoon
Cooked dry beans and peas	2 Tablespoons	2 Tablespoons	4 Tablespoons	4 Tablespoons
Yogurt	1/4 cup	1/4 cup	1/2 cup	1/2 cup
Nuts and/or seeds <i>(as listed in program guidance*)</i>	1/2 oz.	1/2 oz.	1 oz.	1 oz.
* No more than 1 oz. Of nuts and/or seeds may be served in any one meal. Adopted from the RCCI Food Service Manual – Revised 1998				

SUPPLEMENT II

MINIMUM QUANTITIES FOR FOOD BASED MENUS – LUNCH AND SUPPER

Meal Component	Required				Option
	Ages 1-2	Preschool	Grades K-6	Grades 7-12	Grades K-3
Milk (<i>as beverage</i>)	6 fl. oz.	6 fl. oz.	8 fl. oz.	8 fl. oz.	8 fl. oz.
Meat or Meat Alternate (Quantity of the edible portion as served)					
<i>Lean meat, poultry, or fish</i>	1 oz.	1 1/2 oz.	2 oz.	2 oz.	1 1/2 oz.
<i>Cheese</i>	1 oz.	1 1/2 oz.	2 oz.	2 oz.	1 1/2 oz.
<i>Large egg</i>	1/2	3/4	1	1	3/4
<i>Cooked dry beans or peas</i>	1/4 cup	3/8 cup	1/2 cup	1/2 cup	3/8 cup
<i>Peanut butter or other nut or seed butters</i>	2 Tablespoons	3 Tablespoons	4 Tablespoons	4 Tablespoons	3 Tablespoons
<i>Yogurt</i>	1/2 cup	3/4 cup	1 cup	1 cup	3/4 cup
<i>The following may be used to meet no more than 50% of the requirement and must be used in combination with any of the above:</i>					
Peanuts, soynuts, tree nuts or seeds, as listed in program guidance, or an equivalent quantity of any combination of the above meat/meat alternate (1 oz. Of nuts/seeds = 1 oz. Of cooked lean meat, poultry, or fish)	1/2 oz. =50%	3/4 oz. =50%	1 oz. =50%	1 oz. =50%	3/4 oz. =50%
Vegetables/Fruits (2 or more servings of vegetables or fruits or both)	1/2 cup	1/2 cup	3/4 cup plus extra 3/4 cup over a week*	1 cup	3/4 cup
Grains/Bread Must be enriched or whole grain. A serving is a slice of bread or an equivalent serving of biscuits, rolls, etc., or 1/2 cup cooked rice, macaroni, noodles, other pasta products or cereal grains.	7 servings per week*	12 servings per week*	17 servings per week*	21 servings per week*	14 servings per week*
	Minimum of 1/2 per day**	Minimum of 1 per day**	Minimum of 1 per day**	Minimum of 1 per day**	Minimum of 1 per day**
*For the purpose of this chart, a week equals seven days. **Up to one grains/breads serving per day may be a dessert. Adopted from the RCCI Food Service Manual – Revised 1998					

REVISIONS TO REQUIREMENTS FOR RESIDENTIAL FACILITIES

Below is the time-frame reflecting the most recent legislative revisions to Licensing Requirements for Residential Facilities:

March 23, 2010	Commission for Human Services approves proposed revisions.
April 28, 2010	Governor approves proposed requirement revisions.
July 1, 2010	Effective date of revisions.

INDEX

<p>ABSENT, LACK OF PERMISSION.....6</p> <p>ACTIVITIES</p> <p style="padding-left: 20px;">Community Activities.....17</p> <p style="padding-left: 20px;">Religious17</p> <p style="padding-left: 20px;">Recreational.....18</p> <p style="padding-left: 20px;">High Risk33</p> <p>ANIMALS26</p> <p>BASEMENTS.....22</p> <p>BATHROOMS.....23, 36</p> <p>BEHAVIOR MANAGEMENT</p> <p style="padding-left: 20px;">Staff training.....11</p> <p style="padding-left: 20px;">Prohibitions18</p> <p style="padding-left: 20px;">Separation19</p> <p style="padding-left: 20px;">Seclusion40, 43</p> <p>CHANGE OF OWNERSHIP4</p> <p>CHILD ABUSE</p> <p style="padding-left: 20px;">Restricted Employees11</p> <p style="padding-left: 20px;">Reporting of Suspected3, 5</p> <p style="padding-left: 20px;">Public Records.....4</p> <p>CHILD CARE RESTRICTED</p> <p style="padding-left: 20px;">REGISTRY (SEE RESTRICTED</p> <p style="padding-left: 20px;">REGISTRY)</p> <p>CPR12</p> <p>CRIMINAL HISTORY</p> <p style="padding-left: 20px;">Exempt Employees10</p> <p style="padding-left: 20px;">Filing of Records.....10</p> <p style="padding-left: 20px;">Owner/Director Responsibility.....9</p> <p style="padding-left: 20px;">Prohibitions to employment.....10</p> <p style="padding-left: 20px;">Sex Offenders Registry10</p> <p style="padding-left: 20px;">Waiver.....11</p> <p>DEATH OF RESIDENT, NOTIFYING</p> <p>LICENSING6</p> <p>DEFINITIONS1</p> <p>DIAPER CHANGING23</p> <p>DISCHARGE PROCEDURES16</p> <p>DOORS</p> <p style="padding-left: 20px;">Screens.....25</p> <p style="padding-left: 20px;">Locks/Key Control.....23, 42</p> <p style="padding-left: 20px;">Secure Facilities.....42</p> <p>EDUCATION (For Resident)18</p> <p>EMERGENCY PROCEDURES</p> <p style="padding-left: 20px;">Posting32</p> <p style="padding-left: 20px;">Planning22</p> <p>EMPLOYEES</p> <p style="padding-left: 20px;">Responsibilities7</p>	<p style="padding-left: 20px;">Qualifications, Director8, 35</p> <p style="padding-left: 20px;">Qualifications, Staff.....8</p> <p style="padding-left: 20px;">Prohibitions to Employment10</p> <p style="padding-left: 20px;">Records13</p> <p style="padding-left: 20px;">General Requirements9</p> <p>FINANCES AND FUNDING.....6</p> <p>FIREARMS</p> <p style="padding-left: 20px;">High Risk Activities34</p> <p style="padding-left: 20px;">Storage23</p> <p>FIRE DRILL</p> <p style="padding-left: 20px;">Documentation6</p> <p style="padding-left: 20px;">Required Number34</p> <p>FIRE SAFETY</p> <p style="padding-left: 20px;">Fire Protection Plan32</p> <p style="padding-left: 20px;">Fire Protection Equipment32</p> <p style="padding-left: 20px;">Smoke Detectors32</p> <p style="padding-left: 20px;">Fire Extinguishers.....33</p> <p style="padding-left: 20px;">Evacuation.....32</p> <p style="padding-left: 20px;">Exits.....32</p> <p style="padding-left: 20px;">Heating33</p> <p style="padding-left: 20px;">Electrical Cords and Outlets33</p> <p style="padding-left: 20px;">Staff Training11, 32</p> <p>FIRST AID</p> <p style="padding-left: 20px;">Training.....12</p> <p style="padding-left: 20px;">Supplies.....20</p> <p>FOOD AND NUTRITION</p> <p style="padding-left: 20px;">Annual Consultation with</p> <p style="padding-left: 40px;">Nutritionist/Dietitian.....20</p> <p style="padding-left: 20px;">Meal Requirements20</p> <p style="padding-left: 20px;">Menu Planning.....20</p> <p style="padding-left: 20px;">Minimum Meal Plan61 - 62</p> <p style="padding-left: 20px;">Posted/Dated.....20</p> <p>FOOD SERVICE AND SANITATION</p> <p style="padding-left: 20px;">Protection from Contamination27</p> <p style="padding-left: 20px;">Refrigerator/Freezer Temperature...28</p> <p style="padding-left: 20px;">Dishwashing29</p> <p style="padding-left: 20px;">Hand-washing Facilities.....30</p> <p style="padding-left: 20px;">Single Service Articles30</p> <p style="padding-left: 20px;">Garbage and Rubbish Disposal.....26</p> <p style="padding-left: 20px;">Hand-washing.....30</p> <p>FURNISHINGS AND DÉCOR</p> <p style="padding-left: 20px;">Beds23</p> <p style="padding-left: 20px;">Cribs23</p> <p style="padding-left: 20px;">Window Treatments.....24</p> <p style="padding-left: 20px;">Furniture24</p>
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INDEX

GRIEVANCE POLICY		Discharge Procedures	16, 39
Forms.....	15	Admission Procedures.....	14, 37
Residents Rights.....	17	RECORDS	
GUNS (SEE FIREARMS)		Records and Reports for Licensing ...	6
HAZARDS		Resident Records	16
General	23, 33	Public Records	4
HIGH RISK ACTIVITIES	33	RESIDENTS, EMPLOYMENT OF	17
IMMUNIZATIONS	19	RESTRAINT	
Records	14	Chemical.....	41
INJURIES		Mechanical	40, 43
Notifying Licensing.....	6	Physical	19
Notifying Parents/Custodians.....	37	Restraint Log	41, 44
Log.....	16	RESTRICTED REGISTRY..	1, 3, 10-11, 13
INSPECTIONS		SECLUSION/SECLUSION ROOM	40-44
Environmental	24	SERVICE PLAN	
Fire.....	24	90-Day Review	15
Health	24	6 Month review	15
INSURANCE.....	7, 22	SEWAGE, DISPOSAL OF.....	25
JOSHUA'S LIST.....see RESTRICTED		SLEEP POSITION.....	34
REGISTRY		SLEEPING ROOMS	
LAW, PURPOSE OF.....	1	Residents.....	22, 35
LICENSE	3	Staff	22, 35
LICENSING ACT	45	SLEEP POSITIONING	34
MAINTENANCE		SPACE	
Vehicle	21	Indoor Square Footage.....	22, 38
Walls and ceilings	23	Staff Space	23
Floors, Doors, and Windows.....	23	STAFF (SEE EMPLOYEES)	
MEDICATION		SUPERVISION	13
Administering	19-20	Regimented	35
Designated Staff	19	Shelters	37
Upon Discharge	39	Secure	42
MEDICAL NEEDS		Treatment	39
Operational Plan to Meet	19	Transportation	22
Service Planning	15	SWIMMING (SEE WATER	
Admission	39	ACTIVITIES)	
NOTIFICATIONS	6	TELEPHONE	
NOTIFYING LICENSING	6	Location and Access	24
PHYSICAL EXAMINATIONS		Emergency Phone Numbers.....	33, 44
Medical	14	Residents, Use of	17
Physical	19, 35	Restrictions.....	17
POLICY AND PROCEDURE		Denying Use of.....	19
Administrative	5, 35	TEMPERATURE	
Personnel.....	7, 39	Indoor	23
Behavior Management.....	18	Seclusion Room	40, 43
Grievance	15, 16	Water	23
Secure Care/Search/Contraband.....	42	TOBACCO USE	25

INDEX

TORNADO DRILL	
Documentation.....	6, 34
Required Number.....	34
TRAINING	
Behavioral Intervention Technique...	12
Documentation.....	13
First Aid/CPR	12
Orientation	11
Required Hours.....	11-12
Volunteers.....	8
Safe Vehicle Operation	21-22
Child Passenger Safety Training.....	21
TRANSPORTATION	
Driver Requirements	21
Insurance	22
Emergency Planning.....	22
Records	22
Safety Practices	21
Vehicle Requirements.....	20
Vehicle Maintenance.....	21
TUBERCULOSIS TESTING	
Skin Test.....	9, 37
Chest X-Ray	9
VERMIN INFESTATION	24
VISITATION	
Service Plan.....	15
Rights of Residents.....	18
Residential	40
VOLUNTEERS.....	8
WAIVERS	11
WATER	
Temperature	23
New Construction.....	22
Supply	25
WATER ACTIVITIES	
Pools, Use of	26
Portable Pools.....	26, 39
WEAPONS	23, 42

LICENSING REQUIREMENTS

FOR

RESIDENTIAL CHILD CARE FACILITIES



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