



**pennsylvania**  
DEPARTMENT OF HUMAN SERVICES

**Bureau of  
Human  
Services  
Licensing**

# **R**EGULATORY **C**OMPLIANCE **G**UIDE

**A Tool for Child Residential  
Regulators, Operators, and  
Stakeholders**

**55 Pa. Code Chapter 3800**

**August 1, 2015 Edition**

# Introduction

The purpose of 55 Pa.Code Ch. 3800 (relating to child residential and day treatment facilities) is to protect the health, safety and well-being of children receiving care in a child residential facility. These regulations govern the operation of child residential and day treatment facilities in the Commonwealth of Pennsylvania. In most cases, the regulations speak for themselves. There are, however, some regulations that require additional clarification. Even when the meaning of a regulation is very clear, the purpose and intent of the regulation may not be. There are also different ways to measure regulatory compliance, and both operators and inspectors need to know how compliance will be determined. The Regulatory Compliance Guide, or RCG, is meant to help operators and inspectors better understand the regulations.

This guide is a companion piece to Chapter 3800; it should be used along with the regulations, not instead of them. The explanatory material in this guide is not meant to be “new regulations” or to extend meaning of the regulations beyond their original intent. The guide has been developed to provide clearer explanations of the regulatory requirements of Chapter 3800 to help operators provide safe environments for children through regulatory compliance, and to help regulators protect children by conducting consistent and comprehensive inspections. It provides a detailed explanation of each regulatory requirement, including expectations for compliance, guidelines for measuring compliance, and the primary purpose for the requirement.

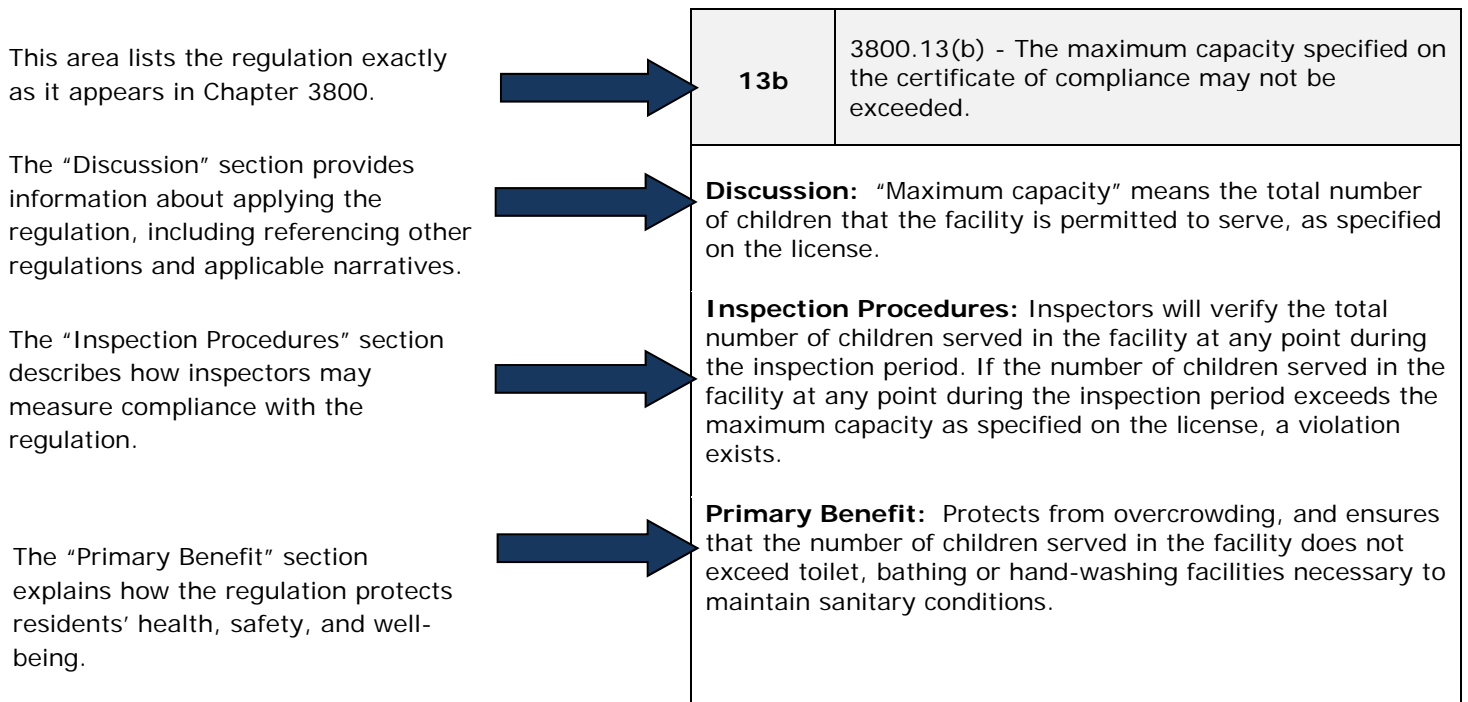
Chapter 3800 sets forth the minimum standards for child residential and day treatment facilities. While facilities may be subject to additional requirements beyond the regulatory minimum for funding or accreditation purposes, the Bureau of Human Services Licensing measures compliance with only Chapter 3800 to ensure that facilities meet minimum health and safety requirements. As such, the RCG’s clarifications and explanatory material are limited solely to requirements and best practices in licensing. Programmatic or funding requirements are not addressed, save where it is necessary to draw a distinction between a regulatory requirement or a programmatic/funding one.

Chapter 3800 addresses seven specialized types of settings: child residential facilities, outdoor programs, mobile programs, secure care settings, secure detention centers, day treatment centers, and transitional living residences. Some Chapter 3800 regulations are applied in all setting types; others are unique to a particular type of setting.

# How to Use the Regulatory Compliance Guide

This guide has been developed to provide clearer explanations of the regulatory requirements of 55 Pa. Code Chapter 3800 to help licensed operators provide safe environments and effective services to children through regulatory compliance, and to help regulators protect children by conducting consistent and comprehensive inspections. It provides a detailed explanation of each regulatory requirement, including expectations for compliance, guidelines for measuring compliance, and the primary benefit of the requirement.

Each regulation that can be measured during an inspection is included in the RCG and is accompanied by clarifying information. The illustration below shows how regulations are presented and how inspectors and residences can effectively use the RCG.



## "Recommended"

Throughout the RCG, you will repeatedly see the words "recommended" or "strongly recommended." These words indicate that what you are reading is a suggestion based on best practices, not a regulatory requirement. Failure to follow a recommendation will not result in a regulatory violation.

## Inspection Procedures

Please note that the "inspection procedures" are guidelines, and the specific means of measuring compliance with a regulation may differ depending on circumstances specific to the facility and the nature of the regulatory violation.

## Source of Inspection

Compliance with regulations can be measured through three methods:

- “Site” – Direct observation during an on-site inspection. This includes direct observation using all 5 senses. Site observations include the physical inspection of staff offices and private living quarters of staff persons or others living in the residence to assure compliance with building-wide requirements such as the prohibition of portable space heaters and other unsafe practices that may be in violation of the regulations.
- “Records” – Inspection of written documents. This includes the inspection of written materials, electronic transmissions, photographs and other paper or verbal materials.
- “Interview” – Asking questions of residents, staff persons, families and others to determine compliance. This includes unsolicited information provided orally, informal conversations and formal questioning.

# **PART I:**

# Regulations, Discussion, and Inspection Procedures

## PART I: INDEX OF REGULATIONS BY TOPIC

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## PART I

# GENERAL REQUIREMENTS

### Maximum Capacity

13b

3800.13(b) - The maximum capacity specified on the certificate of compliance may not be exceeded.

**Discussion:** "Maximum capacity" means the total number of children that the facility is permitted to serve, as specified on the license.

**Inspection Procedures:** Inspectors will verify the total number of children served in the facility at any point during the inspection period. If the number of children served in the facility at any point during the inspection period exceeds the maximum capacity as specified on the license, a violation exists.

**Primary Benefit:** Protects from overcrowding, and ensures that the number of children served in the facility does not exceed toilet, bathing or hand-washing facilities necessary to maintain sanitary conditions.

### Fire Safety Approval

14a

3800.14(a) - If a fire safety approval is required in accordance with State law or regulations, a valid fire safety approval from the appropriate authority, listing the type of occupancy, is required prior to receiving a certificate of compliance under this chapter.

**Discussion:** For the purposes of licensing, the terms "fire safety approval" and "certificate of occupancy" are equivalent. A certificate of occupancy is a document verifying that a building is in compliance with building codes and other laws and is safe for human occupation.

Most facilities licensed under Chapter 3800 must have a certificate of occupancy. If a facility does not have a certificate of occupancy and is unsure if they need one, the facility should contact its local building code authority or the Department of Labor and Industry for guidance. If a certificate of occupancy is not required, it is strongly recommended that facilities obtain written verification of such from the local building code authority or the Department of Labor and Industry.

**Inspection Procedures:** Inspectors will review and obtain a copy of the facility's certificate of occupancy during the inspection. If a certificate of occupancy is not required, inspectors will review written verification from the local building code authority or the Department of Labor and Industry that a certificate of occupancy is not required (if available).

**Primary Benefit:** Ensures that the facility is appropriately constructed to serve children in a residential or day treatment setting.

**Exceptions:** Regulation § 3800.14 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

14b

3800.14(b) - If the fire safety approval is withdrawn or restricted, the facility shall notify the Department orally within 24 hours and in writing within 48 hours of the withdrawal or restriction.

**Discussion:** A certificate of occupancy may be withdrawn or restricted due to damage, physical site modifications not approved by the local building authority, and the like. Withdrawal or restriction will be issued in writing; this written documentation should be provided to the Department with the notification required by this regulation. In most cases, there is no mechanism to renew an existing certificate of occupancy absent a change in use or structural modifications to the facility. Since structural renovations already require a new certificate of occupancy pursuant to § 3800.14(c), the Department interprets this regulation to apply only if the use of the building has changed within the past 3 years. Change in use generally includes converting from dual to single licensure, converting a portion of the building to a medical center, or any change in use described in the Uniform Construction Code. The Department expects facilities to work with the appropriate local building authority to determine if changes to a certificate of occupancy are required prior to changing the use of the building.

**Inspection Procedures:** Inspectors will interview the director and maintenance staff to determine if the facility's

certificate of occupancy has been withdrawn or restricted within the past year or if it is currently restricted. Inspectors will verify that the facility obtained a new or modified certificate of occupancy prior to changing the use of the building.

**Primary Benefit:** Ensures that the facility is appropriately constructed to serve children in a residential or day treatment setting. Ensures that child health and safety is not compromised by failure to meet or maintain construction standards.

**Exceptions:** Regulation § 3800.14 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

**14c**

3800.14(c) - If a building is structurally renovated or altered after the initial fire safety approval is issued, the facility shall submit the new fire safety approval, or written certification that a new fire safety approval is not required, from the appropriate fire safety authority.

**Discussion:** The Uniform Construction Code (UCC) requires a new certificate of occupancy for major structural, electrical, mechanical, and plumbing changes. In the event that a new certificate of occupancy is not required, a statement from the local building authority or the Department of Labor and Industry indicating that a new certificate of occupancy is not required must be obtained.

**Inspection Procedures:** Minor repairs of most systems do not require new permits. However, major repairs or renovations may. Inspectors will interview the director and maintenance staff to determine if the facility's certificate of occupancy has been withdrawn or restricted within the past year or if it is currently restricted. Inspectors will determine if the facility has undergone renovations or repairs since the certificate of occupancy was issued. Inspectors will ask for a new certificate of occupancy or written certification that a new certificate of occupancy is not needed when major repairs, renovations, or new construction has occurred.

**Primary Benefit:** Ensures that the facility is appropriately constructed to serve children in a residential or day treatment setting. Ensures that child health and safety is not compromised by failure to meet or maintain construction standards.

**Exceptions:** Regulation § 3800.14 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

## Child Abuse

**15a**

3800.15(a) - The facility shall immediately report suspected abuse of a child in accordance with 23 Pa.C.S. §§ 6301—6385 (relating to the Child Protective Services Law) and Chapter 3490 (relating to protective services).

**Discussion:** The definition of child abuse can be found in 23 Pa.C.S. § 6303 (relating to definitions).

The Child Protective Services Law requires mandated reporters to take the following steps in cases of suspected child abuse:

1. Make an immediate and direct report of suspected child abuse to ChildLine either electronically at: [www.compass.state.pa.us/cwis](http://www.compass.state.pa.us/cwis) or by calling 1-800-932-0313.
2. After making the report to ChildLine, immediately thereafter notify the person in charge or the designated agency of the person in charge of the facility.
3. If an oral report was made via telephone, the mandated reporter must also make a written report to the investigating agency within 48 hours. The written report must be completed on a form provided by the Department's Office of Children, Youth, and Families.

Additional information is available at: [www.keepkidssafe.pa.gov](http://www.keepkidssafe.pa.gov).

**Inspection Procedures:** Inspectors will verify that the facility followed all of the steps as described above.

**Primary Benefit:** Ensures that abuse or suspected abuse is appropriately reported and investigated.

**15b**

3800.15(b) - If there is an allegation of child abuse involving facility staff persons, the facility shall submit and implement a plan of supervision in accordance with 23 Pa.C.S. § 6368 (relating to investigation of reports) and § 3490.56 (relating to county agency investigation of suspected child abuse perpetrated by persons employed or supervised by child care services and residential facilities).

**Discussion:** It is important to remember that the facility must respond to allegations of abuse as though the allegation were true, even if the report seems far-fetched or unlikely. Failure to take appropriate action in response to an abuse report, even if the abuse did not occur, could result in a regulatory violation.

The Child Protective Services Law requires facilities to take the following steps in cases of suspected abuse:

1. If the report involves a staff person, immediately implement a plan of supervision or alternative arrangements to ensure the safety of the child and other children. The plan of supervision or alternative arrangements must be in writing and approved by the Child Protective Services investigating agency.
2. Contact the Child Protective Services investigating agency to determine if an internal investigation should be initiated.

**Inspection Procedures:** Inspectors will review the facility's child abuse reporting procedures, as well as review the facility's responses to actual reports of abuse or suspected abuse.

**Primary Benefit:** Ensures that abuse or suspected abuse is appropriately reported and investigated.

### Reportable Incidents

<b>16b</b>	3800.16(b) - The facility shall develop written policies and procedures on the prevention, reporting, investigation and management of reportable incidents.
<b>16c</b>	3800.16(c) - The facility shall complete a written reportable incident report, on a form prescribed by the Department, and send it to the appropriate Departmental regional office and the contracting agency, within 24 hours.
<b>16d</b>	3800.16(d) - The facility shall orally report to the appropriate Departmental regional office and the contracting agency within 12 hours, a fire requiring the relocation of children, an unexpected death of a child and a child who is missing from the facility if police have been notified.
<b>16e</b>	3800.16(e) - The facility shall initiate an investigation of a reportable incident immediately following the report of the incident and shall complete the investigation within a reasonable time.
<b>16f</b>	3800.16(f) - The facility shall submit a final reportable incident report to the agencies specified in subsection (c) immediately following the conclusion of the investigation.
<b>16g</b>	3800.16(g) - A copy of reportable incident reports shall be kept.
<b>16h</b>	3800.16(h) - The facility shall notify the child's parent and, if applicable, a guardian or custodian, immediately following a reportable incident relating to a specific child, unless restricted by applicable confidentiality statutes, regulations or an individual child's court order.

**Discussion:** There is no requirement for the content of the policies and procedures beyond what is addressed in § 3800.16(c)-(h). However, it is recommended that the facility include the following information:

- Prevention – How will the facility identify and keep each type of incident from happening?
  - Prevention methods will vary by incident type; it is recommended that prevention policies are developed for each type of incident. Prevention policies for incidents with similar prevention methods may be combined.
- Reporting - How will incidents be reported to the director? Who is responsible for reporting to the Department and applicable agencies, and what is the method by which they will make the report?
- Investigation – What is the method and who is the person responsible for investigating the incident?
- Management – How will the reportable incident be recorded and stored, and how trends will be tracked?

When it comes to reportable incidents, the more specific information a facility can provide about the incident, including a timeline of events, actions taken by the facility in response to the event, and the facility's plans to prevent similar incidents in the future, demonstrates the facility's commitment to regulatory compliance and may reduce the need for the Department to pursue additional information.

Facilities should never downplay or minimize the details in an incident report. There have been instances where incidents with scant details proved to be quite serious, which may suggest a deliberate attempt to withhold information – which is usually not the case!

Facilities frequently ask whether a certain type of event or specific situation needs to be reported. It is recommended that facilities follow the “when in doubt, send it out” rule: if you have to ask, you should probably complete the report. There is no violation for reporting incidents or conditions beyond what is required. However, some events do not need to be reported. Please see Appendix A for a list of reportable incidents, and the events that do not need to be reported.

It is recommended that a facility report any *allegation* of a reportable incident in with the timeframes and reporting procedures under § 3800.16. This will ensure that if the facility's internal investigation determines that the incident did in fact occur, it was reported timely in accordance with § 3800.16(c).

All reportable incidents should be reported using the Commonwealth's Home and Community Services Information System (HCSIS). After each report is entered into HCSIS, the facility must send an email to the Department at [RA-pwarlheadquarters@pa.gov](mailto:RA-pwarlheadquarters@pa.gov). The subject line of the email should include the HCSIS identification number; no other information is required. For assistance with HCSIS, please contact the HCSIS Help Desk.

**Oral Reports** - All reportable incidents requiring an oral report must be reported to the Bureau of Human Services Licensing headquarters office. Telephone reports must include all of the information required on the written report. Oral notification of these incidents is in addition to the requirement for written notification described in §

3800.16(c).

**Investigations** - Investigation of incidents should be completed in compliance with the facility's reportable incident policy required by § 3800.16(b). A "reasonable time" depends on the circumstances surrounding nature of the incident and initial investigatory findings. Generally, facilities should complete the investigation as efficiently as possible, while still maintaining the integrity of the investigation. A final report is required when the incident or condition described in the initial report requires additional investigation by the facility, or if the facility did not have enough information to submit a comprehensive report when the incident initially occurred.

**Notification** - It is recommended that the facility include an explanation of who was notified or why the notification was not made with the copy of the reportable incident required by § 3800.16(g). A written report or documented telephone call meets this requirement. If the actual report is provided, the identities of other children must be protected through redaction of any identifying information in accordance with § 3800.20.

Copies of all reports must be retained in either paper and/or electronic form. Retention of the incidents in a child's record is required in accordance with § 3800.248(8) and may be electronically stored. See § 3800.242(a) for further discussion regarding electronic records.

**Inspection Procedures:** Inspectors will review the facility's incident policies to ensure that the content required by § 3800.16(b) is present. Inspectors will also review the facility's incident reporting practices during the year prior to the date of inspection, including: whether incident reporting occurs within the 24-hour timeframe; the facility's investigations of reportable incidents and submission of final reports; and the facility's method of notifying parents/guardians of reportable incidents. Finally, inspectors will review the facility's method for keeping copies of incident reports.

**Primary Benefit:** Robust policies and procedures ensures that the facility is accurately managing reportable incidents, tracking patterns of incidents, and taking steps to prevent future incidents. Reporting incidents –and doing so within the required timeframes - allows the Department to respond promptly to serious situations, and offers facilities the opportunity to provide information that may reduce the need for the Department to pursue additional information. Investigation of incidents by the facility ensures that the causes of the incident are understood and that corrective actions have been taken. Notifying parents, guardians, and custodians ensures that they are notified of the incident and the steps the facility has taken to prevent future incidents from occurring.

### Recordable Incidents

17

3800.17 - The facility shall maintain a record of the following:

- (1) All seizures.
- (2) Suicidal gestures.
- (3) Any incidence of intentionally striking or physically injuring a child.
- (4) Property damage of more than \$500.
- (5) A child absence from the premises without the approval of staff persons, that does not meet the definition of reportable incident in § 3800.16(a) (relating to reportable incidents).
- (6) Injuries, traumas and illnesses of children that do not meet the definition of reportable incident in § 3800.16(a), which occur at the facility.

**Discussion:** Documentation of these incidents may be in each separate child's record or in a facility-wide log or record.

Recordable incidents may be recorded using the Commonwealth's Home and Community Services Information System (HCSIS). Entry of recordable incidents into HCSIS is optional.

**Inspection Procedures:** Inspectors will review child records for the above information, corroborate with staff and conduct child interviews as needed.

**Primary Benefit:** Recording incidents allows the facility to identify patterns of behavior and document critical events and the facility's responses to those events.

**Exceptions:** For transitional living facilities, an incident specified in § 3800.17 does not include a child who leaves the premises of the facility for any period of time without the approval of staff persons, but does include a child whose whereabouts are unknown for more than 24 hours (as per § 3800.292).

### Child Funds

<b>18a</b>	3800.18(a) - Money earned or received by a child is the child's personal property.
<b>18b</b>	3800.18(b) - The facility may place reasonable limits on the amount of money to which a child has access.
<b>18f</b>	3800.18(f) - There shall be no borrowing of child funds by the facility or staff persons.

**Discussion:** Money that is the personal property of a child can only be used for that child's benefit or fines such as court ordered restitution. Facilities may not use a child's funds to benefit the facility or other children in the facility.

Examples of use of child funds that are not for the child's benefit include:

- Use of a child's funds by the facility to purchase or rent a shared item such as a common television, an air conditioner in a common area, or common living room furniture.
- Use of a child's funds by the facility to rent property or items for the facility, legal entity or staff.
- Staff persons or facilities accepting loans or gifts of money from a child.

It is recommended that any facility-imposed limitations are in writing and disclosed to the child and child's responsible parties at the time of admission.

**Inspection Procedures:** Inspectors will review the facility's accounting system for funds to make sure the funds are not being borrowed by the facility or staff persons. Inspectors will also conduct child interviews to determine if money earned or received by a child is the child's personal property, and if reasonable limits are placed on the amount of money to which a child has access.

**Primary Benefit:** Safeguards child funds and property.

**Exceptions:** Regulation § 3800.18 does not apply to day treatment facilities (as per § 3800.311).

<b>18c</b>	3800.18(c) - The facility shall maintain a separate accounting system for child funds, including the dates and amounts of deposits and withdrawals. Commingling of child and facility funds is not permitted.
<b>18d</b>	3800.18(d) - Except for children expected to be in the facility for fewer than 30 days, the facility shall maintain an interest-bearing account for child funds, with interest earned tracked and applied for each child.
<b>18e</b>	3800.18(e) - Money in the child's account shall be returned to the child upon discharge or transfer.

**Discussion:** These regulations require an accounting system and opening interest-bearing accounts, and prohibit comingling of children's funds with facility funds.

**Accounting System** - The facility must develop a system to keep record of each deposit and withdrawal. This includes cash deposits and cash withdrawals of any amount. "Withdrawals" includes purchases of any amount made by the facility with the child's money on behalf of a child. It is recommended that receipts for purchases made on behalf of a child are retained in the child's financial record to verify that the item(s) purchased accurately reflect the amount withdrawn from the child's funds.

**No Commingling** - Child funds and facility funds may not be in the same account. Facilities may manage a single account for all children's funds, provided that a means to track each child's initial deposit and earnings is maintained.

**Interest-Bearing Accounts** – Facilities are exempt from this requirement if the child has less than \$200 in funds.

**Returning Money** – A child's money and any accrued interest is expected to be distributed to the child (or persons legally responsible for the child) on the day the child leaves the facility or as soon as can be reasonably accomplished. If funds are not returned on the day of discharge, the Department will consider the circumstances surrounding the discharge to determine if a regulatory violation exists. Factors considered will include, but are not limited to:

- How much notice the facility was given before the child was discharged.

- Where and how the money is kept.
- Whether the child is not physically present upon “official” discharge notice (i.e. hospitalization, incarceration, runaway status).
- How soon the money was returned after discharge.

**Inspection Procedures:** Inspectors will review the facility’s accounting system for funds to make sure the required content is present, that funds are not comingled, and that interest-bearing accounts are being opened and managed. Inspectors will also review the facility’s record of cash disbursements for children who have left the facility.

**Primary Benefit:** A transaction record ensures that children’s funds are not misused, and protects the facility from accusations of misuse of children’s funds. Separating funds prevents the inadvertent use of child funds for the facility’s business purposes, and ensures that child funds are available for child use. An interest-bearing account allows children the opportunity to earn money, and prompt returning of funds ensures that children have immediate access to their money upon departure.

**Exceptions:** Regulation § 3800.18 does not apply to day treatment facilities (as per § 3800.311).



### Consent to Treatment

<b>19a</b>	3800.19(a) - The facility shall comply with the following statutes and regulations relating to consent to treatment, to the extent applicable: (1) 42 Pa.C.S. §§ 6301—6365 (relating to the Juvenile Act). (2) The Mental Health Procedures Act (50 P.S. §§ 7101—7503). (3) The act of February 13, 1970 (P.L. 19, No. 10) (35 P.S. §§ 10101—10105). (4) Chapter 5100 (relating to mental health procedures). (5) The Pennsylvania Drug and Alcohol Abuse Control Act (71 P.S. §§ 1690.101—1690.115). (6) Other applicable statutes and regulations.
<b>19b</b>	3800.19(b) - The following consent requirements apply unless in conflict with the requirements of applicable statutes and regulations specified in subsection (a): (1) Whenever possible, general written consent shall be obtained upon admission, from the child's parent or legal guardian, for the provision of routine health care such as child health examinations, dental care, vision care, hearing care and treatment for injuries and illnesses. (2) A separate written consent shall be obtained prior to treatment, from the child's parent or legal guardian, or, if the parent or guardian cannot be located, by court order, for each incidence of nonroutine treatment such as elective surgery and experimental procedures. (3) Consent for emergency care or treatment is not required.

**Discussion:** The Mental Health Procedures Act and the act of February 13, 1970 (P. L. 19, No. 10) (35 P. S. § § 10101—10105) relate to age of consent for mental health treatment. In 2005, Act 147 amended previous acts and modified rules established for consent for voluntary inpatient and outpatient care. If a facility wishes to provide involuntary emergency examination and treatment, the facility must be approved to do so by the Department of Public Welfare, Office of Mental Health and Substance Abuse Services.

Facilities do not have the authority to consent to any type of treatment on behalf of the parent or legal guardian. For children in the custody of a county agency, the county agency representative can consent to treatment only if the parental rights have been terminated and there is no assigned legal guardian.

**Inspection Procedures:** Inspectors will review the child's record to verify that written consent forms are present. If the forms are not present, inspectors will verify that the facility made reasonable efforts to obtain consent forms.

**Primary Benefit:** A general consent for routine care allows a facility to obtain routine medical care for a child in the absence of a parent or legal guardian. A consent for nonroutine care protects a person's right to consider the benefits and risks of treatment. Allows a facility to obtain treatment for a child in the event of an emergency without consent.

### Confidentiality of Records

<b>20a</b>	<p>3800.20(a) - The facility shall comply with the following statutes and regulations relating to confidentiality of records, to the extent applicable:</p> <ol style="list-style-type: none"> <li>(1) 23 Pa.C.S. §§ 6301—6385 (relating to the Child Protective Service Law).</li> <li>(2) 23 Pa.C.S. §§ 2101—2910 (relating to Adoption Act).</li> <li>(3) The Mental Health Procedures Act (50 P.S. §§ 7101—7503).</li> <li>(4) Section 602(d) of the Mental Health and Mental Retardation Act (50 P.S. § 4602(d)).</li> <li>(5) The Confidentiality of HIV-Related Information Act (35 P.S. §§ 7601—7612).</li> <li>(6) Sections 5100.31—5100.39 (relating to confidentiality of mental health records).</li> <li>(7) Sections 3490.91—3490.95 (relating to confidentiality).</li> <li>(8) Other applicable statutes and regulations.</li> </ol>
<b>20b</b>	<p>3800.20(b) - The following confidentiality requirements apply unless in conflict with the requirements of applicable statutes and regulations specified in subsection (a):</p> <ol style="list-style-type: none"> <li>(1) A child's record, information concerning a child or family, and information that may identify a child or family by name or address, is confidential and may not be disclosed or used other than in the course of official facility duties.</li> <li>(2) Information specified in paragraph (1) shall be released upon request only to the child's parent, the child's guardian or custodian, if applicable, the child's and parent's attorney, the court and court services, including probation staff, county government agencies, authorized agents of the Department and to the child if the child is 14 years of age or older. Information may be withheld from a child if the information may be harmful to the child. Documentation of the harm to be prevented by withholding of information shall be kept in the child's record.</li> <li>(3) Information specified in paragraph (1) may be released to other providers of service to the child if the information is necessary for the provider to carry out its responsibilities. Documentation of the need for release of the information shall be kept in the child's record.</li> <li>(4) Information specified in paragraph (1) may not be used for teaching or research purposes unless the information released does not contain information which would identify the child or family.</li> <li>(5) Information specified in paragraph (1) may not be released to anyone not specified in paragraphs (2)—(4), without written authorization from the court, if applicable, and the child's parent and, if applicable, the child's guardian or custodian.</li> <li>(6) Release of information specified in paragraph (1) may not violate the confidentiality of another child.</li> </ol>

**Discussion:** This regulation relates to any form of private information, not just a child's record. Staff must be careful not to disclose information through conversation, unsecured medical records or medication logs, or public bulletin boards or calendars showing children's medical appointments. It is recommended that each facility develop and implement policy and procedures specific to record accessibility, security, storage, and authorized use and release of information.

**Inspection Procedures:** Inspectors will ensure that confidential information is maintained in a manner that prevents unauthorized access.

**Primary Benefit:** Protects child privacy and ensures that facilities comply with other applicable laws.

### Applicable Health and Safety Laws

21

3800.21 - The facility shall have a valid certificate or approval document from the appropriate State or Federal agency relating to health and safety protections for children required by another applicable law, not to include local zoning ordinances.

**Discussion:** Unless directly incorporated into Chapter 3800, all suspected violations of other applicable laws, ordinances, and regulations must be referred to the appropriate enforcing authority for investigation.

**Inspection Procedures:** Violations will be recorded by inspectors if the appropriate enforcing authority issues a citation, violation report, or other applicable notice of violation.

**Primary Benefit:** Ensures compliance with other applicable health, safety, and wellness requirements not incorporated by Chapter 3800.

# CHILD RIGHTS

## Notification of Rights and Grievance Procedures

<b>31a</b>	3800.31(a) - Upon admission, each child and available parent and, if applicable, an available guardian or custodian, unless court-ordered otherwise, shall be informed of the child's rights, the right to lodge grievances without fear of retaliation and applicable consent to treatment protections specified in § 3800.19 (relating to consent to treatment).
<b>31b</b>	3800.31(b) - Each child and parent and, if applicable, the child's guardian or custodian, shall be informed of the child's rights, the right to lodge grievances as specified in subsection (a), and applicable consent to treatment protections specified in § 3800.19 (relating to consent to treatment), in an easily understood manner, and in the primary language or mode of communication of the child, the child's parent and, if applicable, the child's guardian or custodian.
<b>31c</b>	3800.31(c) - A copy of the child's rights, the grievance procedures, and applicable consent to treatment protections shall be posted and given to the child, the child's parent and, if applicable, the child's guardian or custodian, upon admission.
<b>31d</b>	3800.31(d) - A statement signed by the child, the child's parent and, if applicable, the child's guardian or custodian, acknowledging receipt of a copy of the information specified in subsection (a), or documentation of efforts made to obtain the signature, shall be kept.
<b>31e</b>	3800.31(e) - A child and the child's family have the right to lodge a grievance with the facility for an alleged violation of specific or civil rights without fear of retaliation.

**Discussion:** A grievance is any oral or written criticism, dispute, or objection raised by or on behalf of a child of the facility, without regard to whom the grievance is directed. Retaliation includes any negative sanction against the child. The language or mode of communication used (including sign language) to communicate this information must be clearly understood by the child and other applicable parties. Interpreters must be used if necessary. To meet the intention of these regulations, the items should be posted in an area that is accessible to children and their responsible parties. A copy of the signed statement or documentation to obtain the signatures must be kept in the child's record pursuant to § 3800.243(12).

**Inspection Procedures:** Inspectors will review child records to verify that signed statements are present, ensure that emergency information is present and includes all of the elements at § 3800.241(b). Inspectors will also verify that a means to readily access the information, including in an emergency situation, exist. Finally, inspectors will review posted rights and grievance procedures to ensure that they are in an accessible area.

**Primary Benefit:** Protects children's rights by verifying that children and their responsible parties have been informed of the child's rights, procedures for filing a grievance, and consent for treatment protections. Ensures that children and their responsible parties have ready access to the above information. Emergency medical plans provide a child's parent or legal custodian with up-front information on how the facility will handle an emergency situation involving their child.

<b>31f</b>	3800.31(f) - The facility shall develop and implement written grievance procedures for the child, the child's family and staff persons to assure the investigation and resolution of grievances regarding an alleged violation of a child's rights.
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**Discussion:** There is no requirement for the content of these procedures beyond what is described in the regulation. However, it is recommended that the facility include the following information:

- The methods by which a child, family, or staff person should lodge a grievance.
- The notification made to the child's responsible parties.
- The assistance that will be provided to a child if (s)he indicates that (s)he wishes to make a written grievance, but needs assistance in doing so.
- The methods and person responsible for investigating the grievance.
- How the facility will communicate the resolution to the individual filing the grievance. It is recommended that a written decision explaining the facility's investigation findings and the action the facility plans to take to resolve the grievance be provided to the individual filing the grievance.
- The time frames in which the above will be completed.

**Inspection Procedures:** Inspectors will review the facility's grievance procedures to ensure that the content required by § 3800.31(f) is present. If grievances have been filed, inspectors will review a sample of grievances to ensure that the procedures were implemented as written.

**Primary Benefit:** Provides children, families, and staff with a mechanism to freely file grievances. Ensures that facilities respond to concerns.

### Specific Rights

**32a**

3800.32(a) - A child may not be discriminated against because of race, color, religious creed, disability, handicap, ancestry, sexual orientation, national origin, age or sex.

**Discussion:** "Discrimination" is the treatment or consideration of, or making a distinction in favor of or against, a child based on the group, class, or category to which that person belongs.

The facility may not discriminate against any child or potential child for purposes of admission, discharge or services provided in the facility.

For the purposes of applying this regulation, discrimination does not include:

- Restricting admission to children of one sex
- Admission or discharge of a child whose needs exceed the services that can be provided by the facility as a result of disability or handicap

Remember that the services the facility will provide and the criteria for admission and discharge must be included in the facility's written description of services and activities; See §3800. 220 and §3800.221.

This requirement requires compliance with discrimination as clarified in this document for the purpose of regulatory compliance. Facilities are responsible for compliance with all existing statutes and regulations relating to civil rights and discrimination.

In 2010, the Children in Foster Care Act, also known as Act 119, was signed into law. On July 30, 2012, the Department released bulletins 3130-12-02, 3700-12-01, 3680-12-01, 3800-12-01 for clarification on the requirements of Act 119. Facilities licensed under the Chapter 3800 regulations should be aware that the rights set forth in Act 119 do not supersede or replace the rights granted by the Chapter 3800 regulations. Youth must be notified of the rights protected under the Chapter 3800 regulations in order for a facility to be in compliance with regulation.

**Inspection Procedures:** Inspectors will review admission and discharge records, and the facility's description of services policy. Inspectors will interview children about equity in service delivery. If an action or policy is suspected to be discriminatory, inspectors will contact the regional office for direction.

**Primary Benefit:** Ensures that children in protected classes are not discriminated against.

**32b**

3800.32(b) - A child may not be abused, mistreated, threatened, harassed or subject to corporal punishment.

**Discussion:** This regulation prohibits the following:

- The infliction of injury on a child by staff or other child
- Unreasonable confinement
- Intimidation or punishment with resulting physical harm
- Deliberately causing pain or mental anguish
- Deprivation by the facility or its staff persons of goods or services which are necessary to maintain physical or mental health
- Exploitation by an act or course of conduct, including misrepresentation or failure to obtain informed consent which results in monetary, personal or other benefit, gain of profit for the perpetrator, or monetary or personal loss to the child
- Neglect of the child, which results in physical harm, pain or mental anguish

- Abandonment or desertion by the facility or its staff persons
- Mistreatment of any kind
- Any sexual contact, regardless of consent, between a child and a staff person

In 2010, the Children in Foster Care Act, also known as Act 119, was signed into law. On July 30, 2012, the Department released bulletins 3130-12-02, 3700-12-01, 3680-12-01, 3800-12-01 for clarification on the requirements of Act 119. Facilities licensed under the Chapter 3800 regulations should be aware that the rights set forth in Act 119 do not supersede or replace the rights granted by the Chapter 3800 regulations. Youth must be notified of the rights protected under the Chapter 3800 regulations in order for a facility to be in compliance with regulation.

**Inspection Procedures:** Procedures will vary based on the circumstances of the abuse allegation(s). Inspectors will receive direction from the regional office regarding abuse investigations.

**Primary Benefit:** Protects children from abuse and neglect.

**32c**

3800.32(c) - A child has the right to be treated with fairness, dignity and respect.

**Discussion:** All children, regardless of age, disability, or behavior, are entitled to dignified and respectful treatment.

In 2010, the Children in Foster Care Act, also known as Act 119, was signed into law. On July 30, 2012, the Department released bulletins 3130-12-02, 3700-12-01, 3680-12-01, 3800-12-01 for clarification on the requirements of Act 119. Facilities licensed under the Chapter 3800 regulations should be aware that the rights set forth in Act 119 do not supersede or replace the rights granted by the Chapter 3800 regulations. Youth must be notified of the rights protected under the Chapter 3800 regulations in order for a facility to be in compliance with regulation.

**Inspection Procedures:** Inspectors will interview children regarding treatment by staff and other children. Additional procedures will vary based on the circumstances of the situation.

**Primary Benefit:** Ensures that children are treated in a respectful and dignified manner.

**32d**

3800.32(d) - A child has the right to be informed of the rules of the facility.

**Discussion:** It is recommended that children be informed of the facility's rules both orally and in writing upon admission; this benefits both the children and the facility.

In 2010, the Children in Foster Care Act, also known as Act 119, was signed into law. On July 30, 2012, the Department released bulletins 3130-12-02, 3700-12-01, 3680-12-01, 3800-12-01 for clarification on the requirements of Act 119. Facilities licensed under the Chapter 3800 regulations should be aware that the rights set forth in Act 119 do not supersede or replace the rights granted by the Chapter 3800 regulations. Youth must be notified of the rights protected under the Chapter 3800 regulations in order for a facility to be in compliance with regulation.

**Inspection Procedures:** Inspectors will interview children regarding their knowledge of the facility rules. The interview will include asking children if there have been any changes to the rules within the past year and if they were notified of the changes.

**Primary Benefit:** Ensures that children are aware of the facility rules and have adequate notice of changes.

<b>32e</b>	3800.32(e) - A child has the right to communicate with others by telephone subject to reasonable facility policy and written instructions from the contracting agency or court, if applicable, regarding circumstances, frequency, time, payment and privacy.
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**Discussion:** Cordless or cell phones are acceptable for children to use to communicate with others. Sign-out sheets are permissible to keep track of the cordless telephones.

In 2010, the Children in Foster Care Act, also known as Act 119, was signed into law. On July 30, 2012, the Department released bulletins 3130-12-02, 3700-12-01, 3680-12-01, 3800-12-01 for clarification on the requirements of Act 119. Facilities licensed under the Chapter 3800 regulations should be aware that the rights set forth in Act 119 do not supersede or replace the rights granted by the Chapter 3800 regulations. Youth must be notified of the rights protected under the Chapter 3800 regulations in order for a facility to be in compliance with regulation.

**Inspection Procedures:** Inspectors will observe the location of available telephones to ensure that privacy is protected, and will interview children about the availability of the phone.

**Primary Benefit:** Protects children’s right to privacy and ensures that children are able to communicate with others outside of the facility.

<b>32f</b>	3800.32(f) - A child shall have the right to visit with family at least once every 2 weeks, at a time and location convenient for the family, the child and the facility, unless visits are restricted by court order. This right does not restrict more frequent family visits.
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**Discussion:** If the facility has documented evidence that a particular person poses a danger to a child or other children in the facility, or if a visitor engages in behavior that causes a disruption in services to children of the facility, the facility may restrict the dangerous person’s access to the grounds, not the child’s right to see the person. The facility may deny access based on court orders or the request of a child’s guardian.

In 2010, the Children in Foster Care Act, also known as Act 119, was signed into law. On July 30, 2012, the Department released bulletins 3130-12-02, 3700-12-01, 3680-12-01, 3800-12-01 for clarification on the requirements of Act 119. Facilities licensed under the Chapter 3800 regulations should be aware that the rights set forth in Act 119 do not supersede or replace the rights granted by the Chapter 3800 regulations. Youth must be notified of the rights protected under the Chapter 3800 regulations in order for a facility to be in compliance with regulation.

**Inspection Procedures:** Inspectors will interview staff and children to verify that this right is protected, and will review the facility’s rules.

**Primary Benefit:** Ensures that children have reasonable opportunity for family visits.

**Exceptions:** Regulation § 3800.32(f) does not apply to day treatment facilities (as per § 3800.311).

<b>32g</b>	3800.32(g) - A child has the right to receive and send mail.
<b>32g1</b>	3800.32(g)(1) - Outgoing mail may not be opened or read by staff persons.
<b>32g2</b>	3800.32(g)(2) - Incoming mail from Federal, State or county officials, or from the child's attorney, may not be opened or read by staff persons.
<b>32g3</b>	3800.32(g)(3) - Incoming mail from persons other than those specified in paragraph (2), may not be opened or read by staff persons unless there is reasonable suspicion that contraband, or other information or material that may jeopardize the child's health, safety or well-being, may be enclosed. If there is reasonable suspicion that contraband, or other information that may jeopardize the child's health or safety may be enclosed, mail may be opened by the child in the presence of a staff person.

**Discussion:** Incoming mail addressed to a child may only be opened by the child, unless the child requests that staff open the mail.

It is recommended that outgoing mail mailed on behalf of a child be mailed within one business day, and that incoming mail be provided to children on the day it arrives at the facility.

**Inspection Procedures:** Inspectors will interview staff and children regarding the facility's mail processing procedures.

**Primary Benefit:** Protects children's privacy when communicating with individuals outside the facility.

**Exceptions:** Regulation § 3800.32(g) does not apply to day treatment facilities (as per § 3800.311).

<b>32h</b>	3800.32(h) - A child has the right to communicate and visit privately with his attorney and clergy.
<b>32i</b>	3800.32(i) - A child has the right to be protected from unreasonable search and seizure. A facility may conduct search and seizure procedures, subject to reasonable facility policy.
<b>32j</b>	3800.32(j) - A child has the right to practice the religion or faith of choice, or not to practice any religion or faith.

**Discussion:** A facility may not establish facility rules or contractual provisions related to religious practice or beliefs.

**Inspection Procedures:** Inspectors will interview staff and children regarding the children's rights to communicate with others outside the facility, unreasonable search and seizure, and to practice or abstain from religious activities.

**Primary Benefit:** Protects the child's right to privately communicate with others outside the facility. Protects the child from unreasonable search and seizure by the facility. This regulation also protects the child's freedom of religion.

<b>32k</b>	3800.32(k) - A child has the right to appropriate medical, behavioral health and dental treatment.
<b>32l</b>	3800.32(l) - A child has the right to rehabilitation and treatment.

**Discussion:** It is important that a child receive the appropriate health care services as needed. Facilities may assist the child in receiving the appropriate health care services by scheduling appointments and arranging for transportation to and from the appointment.

See also § 3800.148.

**Inspection Procedures:** Inspectors will interview staff and children regarding receiving appropriate health care services. Inspectors may also review child records to determine if children are receiving appropriate health care services.

**Primary Benefit:** Ensures that children are able to access health care services that are appropriate to each child's needs.

**Exceptions:** Regulation § 3800.32(k) does not apply to day treatment facilities (as per § 3800.311).



<b>32m</b>	3800.32(m) - A child has the right to be free from excessive medication.
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**Discussion:** For many children, taking medication is a regular part of their daily routine, and medicines are relied upon to treat disease and improve health. To get maximum benefit from medications, it is important that they are taken exactly as prescribed by the medical professional. Chances of having a better health outcome improve when medications are taken as prescribed.

See also §§ 3800.202, 206-210.

**Inspection Procedures:** Inspectors will review child records, medication logs, as well as conduct child and staff interviews, if needed. Inspectors may also receive direction from the regional office.

**Primary Benefit:** Ensures that children do not receive excess medication, which may lead to greater complications from an illness and a lower quality of life.

<b>32n</b>	3800.32(n) - A child may not be subjected to unusual or extreme methods of discipline which may cause psychological or physical harm to the child.
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**Discussion:** See §§ 3800.202, 206-210.

**Inspection Procedures:** Inspectors will review child records, interview staff, and observe children during the course of the inspection. Inspectors may contact the regional office with any questions about methods of discipline.

**Primary Benefit:** Ensures that child behavioral needs are met in the least restrictive way possible, and do not cause harm to the child.

<b>32o</b>	3800.32(o) - A child has the right to clean, seasonal clothing that is age and gender appropriate.
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**Discussion:** Assistance shall be provided such that each child will have appropriate clothing including outerwear and footwear.

**Inspection Procedures:** Inspectors will observe children's clothing during the inspection to ensure that it is clean, seasonally appropriate, and in good repair, and will interview staff about the facility's process to provide assistance with securing clothing.

**Primary Benefit:** Ensures that children have clean, comfortable clothing regardless of season.

### Prohibition Against Deprivation of Rights

<b>33a</b>	3800.33(a) – A child may not be deprived of specific or civil rights.
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<b>33b</b>	3800.33(b) – A child's right may not be used as a reward or sanction.
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<b>33c</b>	3800.33(c) – A child's visits with family may not be used as a reward or sanction.
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**Discussion:** Rights include the specific rights articulated in Chapter 3800 as well as all civil rights provided by state and federal law. Children's rights may not be delayed, withheld, offered as a reward to elicit specific behaviors, or threatened to be withheld as an incentive to elicit specific behaviors at any time.

**Inspection Procedures:** Procedures will vary based on the circumstances of the allegation(s). Inspectors will receive direction from the regional office regarding deprivation of rights.

**Primary Benefit:** Ensures that children may freely exercise and enjoy their basic rights.

# STAFFING

## Child Abuse and Criminal History Checks

<b>51</b>	3800.51 - Child abuse and criminal history checks shall be completed in accordance with 23 Pa.C.S. §§ 6301—6385 (relating to the Child Protective Services Law) and Chapter 3490 (relating to protective services).
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**Discussion:** This regulation requires that the facility's hiring policy or process be in accordance with the Child Protective Services Law and that the background check is documented on the PA State Police Request for Criminal Record Check form (SP4-164), or via the e-patch system.

Anyone who works in or wishes to work in a child residential or day treatment facility must have three types of background checks: a Pennsylvania Child Abuse History Clearance, a Pennsylvania State Police (PSP) Criminal Background Check, and a Federal Bureau of Investigations (FBI) Criminal Background Check.

Pennsylvania's Justice network (JNET) can be used in lieu of the background check completed by the PSP. This background check cannot be used in lieu of the FBI criminal history background check or ChildLine clearance.

FBI criminal background checks must be on the form letter issued by the Department of Public Welfare, Office of Children, Youth and Families. If a facility chooses to obtain FBI background checks through the Pennsylvania Department of Education, ChildLine Division of DPW will review and interpret the Department of Education FBI background checks and provide a results letter from DPW regarding the staff person's eligibility to work in a child care setting. If a facility has an FBI background check completed by PDE indicates the person does not have a record, there is no need for the facility to submit that check to ChildLine for an interpretation.

Please see "Criminal Background Checks" in "Regulatory Issues and Frequently-Occurring Situations" for more information.

**Inspection Procedures:** Inspectors will review the facility's policies relating to criminal history background checks and will review actual background checks for a sample of staff.

**Primary Benefit:** Ensures that employees with prohibitive offenses do not work in child residential and day treatment facilities.

## Staff Hiring, Retention and Utilization

<b>52</b>	3800.52 – Staff hiring retention and utilization shall be in accordance with 23 Pa.C.S. §§ 6301-6385 (relating to the Child Protective Services Law) and Chapter 3490 (relating to protective services).
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**Discussion:** This regulation requires that background checks be performed within the required timeframes and that no individuals with a prohibitive offense be retained.

Anyone who works in or wishes to work in a child residential or day treatment facility must have three types of background checks: a Pennsylvania Child Abuse History Clearance, a Pennsylvania State Police (PSP) Criminal Background Check, and a Federal Bureau of Investigations (FBI) Criminal Background Check.

Pennsylvania's Justice network (JNET) can be used in lieu of the background check completed by the PSP. This background check cannot be used in lieu of the FBI criminal history background check or ChildLine clearance.

FBI criminal background checks must be on the form letter issued by the Department of Public Welfare, Office of Children, Youth and Families. If a facility chooses to obtain FBI background checks through the Pennsylvania Department of Education, ChildLine Division of DPW will review and interpret the Department of Education FBI background checks and provide a results letter from DPW regarding the staff person's eligibility to work in a child care setting. If a facility has an FBI background check completed by PDE indicates the person does not have a record, there is no need for the facility to submit that check to ChildLine for an interpretation.

Please see "Criminal Background Checks" in "Regulatory Issues and Frequently-Occurring Situations" for more information.

**Inspection Procedures:** Inspectors will review the facility's policies relating to criminal history background checks and will review actual background checks for a sample of staff.

**Primary Benefit:** Ensures that employees with prohibitive offenses do not work in child residential and day treatment facilities.

### Director - Qualifications

53a

3800.53(a) – There shall be one director responsible for the facility. A director may be responsible for more than one facility.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspection procedures will vary depending on the circumstances. Inspectors who suspect a violation of these regulations will immediately contact the regional office for direction

**Primary Benefit:** Ensures that the facility has one person responsible for the daily operations of the facility who is able to provide supervision and oversight to staff, implement and supervise provision of services, and who has the knowledge, skills, and abilities to properly do so.

53b

3800.53(b) – The director shall be responsible for administration and management of the facility, including the safety and protection of the children, implementation of policies and procedures and compliance with this chapter.

**Discussion:** § 3800.53(b) sets forth the requirements to properly manage a child residential and day treatment facility.

**Inspection Procedures:** Inspection procedures will vary depending on the circumstances. Inspectors who suspect a violation of these regulations will immediately contact the regional office for direction.

**Primary Benefit:** Ensures that directors have the knowledge, skills, and abilities required to properly manage and administer a child residential and day treatment facility.

53c

3800.53(c) - A director of a facility shall have one of the following:  
(1) A master's degree from an accredited college or university and 2 years work experience in administration or human services.  
(2) A bachelor's degree from an accredited college or university and 4 years work experience in administration or human services.

**Discussion:** Directors, Supervisors, or Child care workers hired on or after October 26, 1999 must meet at least one of the requirements specified by the applicable regulations before employment in the given capacity.

Directors, Supervisors, or Child care workers hired before October 26, 1999 do not need to meet the required educational qualifications and experience required by the applicable regulations if (s)he has worked in a child residential or day treatment facility since the date of hire with no more than a one-year break in service. The Department will review documentation of this exception during the inspection. Such documentation includes:

- A list of job duties as of October 26, 1999
- Dates and location(s) of employment in the given capacity

A person may have held a position in more than one facility, as long as there was no more than a one-year break in service after October 26, 1999.

**Inspection Procedures:** Inspectors will review the director's documentation of his/her qualifications. Inspectors will verify the director's identity, obtain the director's record, and verify that the director: has the necessary child abuse and criminal history checks, meets the educational requirements at § 3800.53(c), received the initial training requirements at § 3800.58(a)-(b), and received the annual training requirements at § 3800.58(d)-(g).

**Primary Benefit:** Ensures that the facility has one person responsible for the daily operations of the facility who is able to provide supervision and oversight to staff, implement and supervise provision of services, and who has the knowledge, skills, and abilities to properly do so. Ensures that the director has the necessary education and experience to successfully perform the duties and responsibilities required of the position.

## Child Care Supervisor - Qualifications

<b>54a</b>	3800.54(a) - There shall be one child care supervisor available either onsite or by telephone at all times children are at the facility.
<p><b>Discussion:</b> The child care supervisor must remain accessible to facility staff at all times children are at the facility. The child care supervisor may be accessible by being onsite at the facility, or by telephone.</p> <p><b>Inspection Procedures:</b> Inspectors will review staff schedules and payroll records to verify that this requirement is met. Inspectors may also conduct staff and resident interviews.</p> <p><b>Primary Benefit:</b> Ensures that a person qualified to meet the needs of the children or seek help in an emergency is present in the home.</p> <p><b>Exceptions:</b> Regulation § 3800.54(a) does not apply to day treatment facilities (as per § 3800.311).</p>	
<b>54b</b>	3800.54(b) - For facilities serving 16 or more children, whenever 16 or more children are present at the facility, there shall be at least one child care supervisor present at the facility.
<p><b>Discussion:</b> Self-explanatory.</p> <p><b>Inspection Procedures:</b> Inspectors will review staff schedules and payroll records to verify that this requirement is met. Inspectors may also conduct staff and resident interviews.</p> <p><b>Primary Benefit:</b> Ensures that a person qualified to meet the needs of the children or seek help in an emergency is present in the home.</p> <p><b>Exceptions:</b> Regulation § 3800.54(b) does not apply to day treatment facilities (as per § 3800.311).</p>	
<b>54c</b>	3800.54(c) - The child care supervisor shall be responsible for developing and implementing the program and schedule for the children and for supervision of child care workers.
<p><b>Discussion:</b> Self-explanatory.</p> <p><b>Inspection Procedures:</b> Inspectors will conduct staff interviews, review programmatic materials and staff schedules if needed.</p> <p><b>Primary Benefit:</b> Ensures that one person is responsible for the development and implementation of the facility's program, as well as someone who completes the scheduling.</p>	
<b>54d</b>	3800.54(d) - The child care supervisor shall have one of the following: <ol style="list-style-type: none"> <li>(1) A bachelor's degree from an accredited college or university and 1 year work experience with children.</li> <li>(2) An associate's degree or 60 credit hours from an accredited college or university and 3 years work experience with children.</li> </ol>
<p><b>Discussion:</b> Directors, Supervisors, or Child care workers hired on or after October 26, 1999 must meet at least one of the requirements specified by the applicable regulations before employment in the given capacity.</p> <p>Directors, Supervisors, or Child care workers hired before October 26, 1999 do not need to meet the required educational qualifications and experience required by the applicable regulations if (s)he has worked in a child residential or day treatment facility since the date of hire with no more than a one-year break in service. The Department will review documentation of this exception during the inspection. Such documentation includes:</p> <ul style="list-style-type: none"> <li>• A list of job duties as of October 26, 1999</li> <li>• Dates and location(s) of employment in the given capacity</li> </ul> <p>A person may have held a position in more than one facility, as long as there was no more than a one-year break in service after October 26, 1999.</p>	

The child care supervisor shall have in his/her personnel file a copy of his/her degree or a transcript, as well as a detailed resume listing all jobs held, dates of jobs held, and providing detailed information about job duties (s)he was responsible for each job listed on the resume.

**Inspection Procedures:** Inspectors will obtain the child care supervisor’s record. Inspectors will verify that the child care supervisor has the necessary child abuse and criminal history checks, as well as meets the educational requirements at § 3800.54(d).

**Primary Benefit:** Ensures that the facility has supervisors that oversee the daily implementation of program and provide direct supervision to the child care workers and that these duties are completed by a person that has the knowledge, skills, and abilities to properly do so. Ensures that the child care supervisors have the necessary education and experience to successfully perform the duties and responsibilities required of the position.

### Child Care Worker - Qualifications

<b>55a</b>	3800.55(a) - There shall be one child care worker present with the children for every eight children who are 6 years of age or older, during awake hours.
<b>55b</b>	3800.55(b) - There shall be one child care worker present with the children for every 16 children who are 6 years of age and older, during sleeping hours.
<b>55c</b>	3800.55(c) - There shall be one child care worker present with the children for every four children who are under 6 years of age, during awake hours.
<b>55d</b>	3800.55(d) - There shall be one child care worker present with the children for every eight children who are under 6 years of age, during sleeping hours.
<b>55e</b>	3800.55(e) - If there are children who are under 6 years of age and 6 years of age and older in the same group, the ratios specified in subsections (c) and (d) apply.

**Discussion:** “Present at the facility” means physically present on the premises of each licensed facility. For example, if 3 facilities on the same grounds serve 16 or more children, then a child care supervisor must be present in each facility whenever there are 16 or more children present.

“Present with the children” usually means “within visual or auditory range.” In general, staff that are unable to see and/or hear children while on break or while performing ancillary duties may not be counted in the staff-to-child ratios.

“Sleeping hours” means “11:00 PM to 7:00 AM” unless the facility can demonstrate that another time period more accurately reflects normal sleeping hours. For example, if most (more than half) of the children go to sleep at 10:00 PM and wake at 6:00 AM, 10:00 PM to 6:00 AM may be used as sleeping hours when measuring compliance with this regulation.

A child care supervisor may be counted in the child care worker staffing ratios only when the child care supervisor is present with the children – either physically present or within auditory range.

If all of the children served at the facility are under 18 years of age, the minimum age for all child care workers is 18. If ONE of the children served at the facility is 18 years of age or older, the minimum age for ALL child care workers is 21.

Infants and toddlers of children residing in mother-baby programs count as a “child” when calculating ratios.

Please see “Staffing Calculations” in the “Regulatory Issues and Frequently-Occurring Situations” section.

**Inspection Procedures:** Inspectors will obtain a staff schedule for the calendar month preceding the month in which the inspection is being conducted and select a sample of days from the schedule. Inspectors will verify that the number of child care supervisors were present or accessible and that child care workers were present on the sampled days. Inspectors may also review payroll records, observe staff ratios during the inspection, and interview staff and children to verify that these requirements are met, as appropriate. Inspectors will verify that there are sufficient staff on duty at any time to meet special needs identified in children’s safety or individual service plan, and verify that the ages of child care workers properly correspond to the ages of the children served at the facility.

**Primary Benefit:** Ensures that sufficient staff are present to supervise and protect children in care.

**Exceptions:** Regulations § 3800.55(a)-(d) do not apply to secure care facilities (as per § 3800.273). Regulation § 3800.55 does not apply to transitional living facilities (as per § 3800.292).

**55f**

3800.55(f) - The child care worker shall be responsible for implementing daily activities and for supervision of the children.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review the facility's daily activities as well as staff schedules. Inspectors may also interview staff and children.

**Primary Benefit:** Ensures that daily activities will be implemented, and that children will be supervised.

**Exceptions:** Regulation § 3800.55 does not apply to transitional living facilities (as per § 3800.292).

**55g**

3800.55(g) - The child care worker shall have a high school diploma or general education development certificate.

**Discussion:** Directors, Supervisors, or Child care workers hired on or after October 26, 1999 must meet at least one of the requirements specified by the applicable regulations before employment in the given capacity.

Directors, Supervisors, or Child care workers hired before October 26, 1999 do not need to meet the required educational qualifications and experience required by the applicable regulations if (s)he has worked in a child residential or day treatment facility since the date of hire with no more than a one-year break in service. The Department will review documentation of this exception during the inspection. Such documentation includes:

- A list of job duties as of October 26, 1999
- Dates and location(s) of employment in the given capacity

A person may have held a position in more than one facility, as long as there was no more than a one-year break in service after October 26, 1999.

A child care worker with an active registry status on the Pennsylvania nurse aide registry (CNA) meets this requirement.

Diplomas from non-U.S. educational institutions will be considered through the waiver process (see § 3800.22). Waiver submissions must include documentation that the non-U.S. educational program is equivalent to or exceeds U.S. educational requirements; for a non-U.S. educational program to qualify, it must include math and English at a minimum. Documentation in a language other than English must be translated by certified translation service prior to submission to the Department.

**Inspection Procedures:** Inspectors will review the staff persons' documentation of their qualifications. If there is reason to suspect that a child care worker has a serious medical condition that would limit the individual from performing his or her duties with reasonable skill and safety, the inspector will immediately contact the regional office for direction.

**Primary Benefit:** Ensures that child care workers have the education and ability required to perform job duties specified by the facility.

**Exceptions:** Regulation § 3800.55(g) does not apply to secure detention facilities (as per § 3800.282). Regulation § 3800.55 does not apply to transitional living facilities (as per § 3800.292).

<b>55h</b>	3800.55(h) - A child care worker who is counted in the worker to child ratio shall be 18 years of age or older if all the children served in the facility are under 18 years of age. A child care worker who is counted in the worker to child ratio shall be 21 years of age or older if one or more children served in the facility are 18 years of age or older.
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**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review staff schedules and child records, as well as verify age of staff by reviewing staff records.

**Primary Benefit:** Defines the responsibility of each child care worker and ensures that children are receiving the programming and supervision needed to meet their needs. Ensures that child care workers have the required education to perform job duties specified by the facility.

**Exceptions:** Regulation § 3800.55 does not apply to transitional living facilities (as per § 3800.292).

### Supervision

<b>57a</b>	3800.57(a) - While children are at the facility, children shall be supervised during awake and sleeping hours by conducting observational checks of each child at least every hour.
<b>57b</b>	3800.57(b) - Observational checks of children specified in subsection (a) shall include actual viewing of each child.
<b>57c</b>	3800.57(c) - Staff persons may not sleep while being counted in the staff to child ratios.

**Discussion:** "Present at the facility" means physically present in each licensed facility. For example, if 3 facilities on the same grounds serve 16 or more children, then a child care supervisor must be present in each facility whenever there are 16 or more children present.

"Present with the children" usually means "within visual or auditory range." In general, staff that are unable to see and/or hear children while on break or while performing ancillary duties may not be counted in the staff-to-child ratios.

"Sleeping hours" are to be defined by the facility.

If all of the children served at the facility are under 18 years of age, the minimum age for all child care workers is 18. If ONE of the children served at the facility is 18 years of age or older, the minimum age for ALL child care workers is 21.

Please see "Staffing Calculations" in the "Regulatory Issues and Frequently-Occurring Situations" section.

**Inspection Procedures:** Inspectors will obtain a staff schedule for the calendar month preceding the month in which the inspection is being conducted and select a sample of days from the schedule. Inspectors will verify that the number of child care supervisors were present or accessible and that child care workers were present on the sampled days. Inspectors may also review payroll records, observe staff ratios during the inspection, and interview staff and children to verify that these requirements are met, as appropriate. Inspectors may also verify that there are sufficient staff on duty at any time to meet special needs identified in children's safety or individual service plan, as well as verify that the ages of child care workers properly correspond to the ages of the children served at the facility.

**Primary Benefit:** Ensures that sufficient staff are present to supervise and protect children in care.

**Exceptions:** Regulation § 3800.57 does not apply to transitional living facilities (as per § 3800.292). Regulation § 3800.57 does not apply to outdoor programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.57 does not apply to outdoor that operate from stationary settings such as tepees and cabins (as per § 3800.302).

## Staff Training

**58a**

3800.58(a) - Prior to working with children, each staff person who will have regular and significant direct contact with children, including part-time and temporary staff persons and volunteers, shall have an orientation to the person's specific duties and responsibilities and the policies and procedures of the facility, including reportable incident reporting, discipline, care and management of children, medication administration and use of restrictive procedures.

**Discussion:** The orientation training required by this regulation is designed to ensure all staff persons working in the facility, including part-time and temporary staff persons and volunteers, are trained to handle an emergency situation to ensure child safety. The training should be specific to the facility, as each facility has different procedures.

Please see "Staff Training" in the "Regulatory Issues and Frequently-Occurring Situations" section.

**Inspection Procedures:** Inspectors will review the training documentation and staff records to ensure staff persons were trained in all the areas of this regulation on the first day of employment in the facility. Inspectors may also interview staff to determine if the training was provided.

**Primary Benefit:** Ensures that all staff persons are immediately trained to respond to an emergency situation.

**58b**

3800.58(b) - Prior to working alone with children and within 120 calendar days after the date of hire, the director and each full-time, part-time and temporary staff person who will have regular and significant direct contact with children, shall have at least 30 hours of training to include at least the following areas:

- (1) The requirements of this chapter.
- (2) 23 Pa.C.S. § § 6301—6385 (relating to child protective services law) and Chapter 3490 (relating to protective services).
- (3) Fire safety.
- (4) First aid, Heimlich techniques, cardiopulmonary resuscitation and universal precautions.
- (5) Crisis intervention, behavior management and suicide prevention.
- (6) Health and other special issues affecting the population.

**Discussion:** Due to the importance of this training for life safety, it should be provided by an experienced staff person who has been properly trained in the facility's fire safety and emergency preparedness procedures and the proper use of a fire extinguisher.

Please see "Staff Training" and "Training Requirements of the Child Protective Services Law" in the "Regulatory Issues and Frequently-Occurring Situations" section.

**Inspection Procedures:** Inspectors will review the training documentation and staff records to ensure staff persons were trained in all the areas required by this regulation within 120 calendar days after the date of hire. Inspectors may also interview staff to determine if the training was provided.

**Primary Benefit:** Ensures that all staff persons working in the facility are familiar with the 3800 regulations, fire safety, and emergency procedures.

**58d**

3800.58(d) - After initial training, the director and each full-time, part-time and temporary staff person, who will have regular and significant direct contact with children, shall have at least 40 hours of training annually relating to the care and management of children. This requirement for annual training does not apply for the initial year of employment.

**Discussion:** This applies to all staff persons who perform child care duties including contract staff, volunteers, and part time child care staff. Please note that Departmental approval of the annual training sources or training instructors for direct care staff persons is **not required**.

Please see "Staff Training" and "Training Requirements of the Child Protective Services Law" in the "Regulatory Issues and Frequently-Occurring Situations" section.

**Inspection Procedures:** Inspectors will review staff training records for the most recent 12-month cycle to ensure the staff person completed 40 hours of training relating to the duties of their position. Only records of staff persons who have worked in the facility for one full training year may be reviewed when measuring compliance with this



regulation.

**Primary Benefit:** Ensures that staff receive high quality training to continue to develop their knowledge of regulatory requirements and best practices in child care.

**58e**

3800.58(e) - Each staff person who will have regular and significant direct contact with children, shall complete training in first aid, Heimlich techniques and cardiopulmonary resuscitation at least every year. If a staff person has a formal certification from a recognized health care organization which is valid for more than 1 year, retraining is not required until expiration of the certification.

**Discussion:** Please see "Staff Training" and "Training Requirements of the Child Protective Services Law" in the "Regulatory Issues and Frequently-Occurring Situations" section.

**Inspection Procedures:** Inspectors will review the training documentation to ensure it was provided by an individual certified as a trainer by a hospital or other recognized health care organization.

**Primary Benefit:** Ensures that staff are appropriately trained to respond to an emergency, and that there are sufficient numbers of qualified staff to respond to simultaneous emergency situations (for example, if one resident is choking while another resident experiences cardiac arrest).

**58f**

3800.58(f) – Training in first aid, Heimlich techniques and cardiopulmonary resuscitation shall be completed by an individual certified as a trainer by a hospital or other recognized health care organization.

**Discussion:** Please see "Staff Training" and "Training Requirements of the Child Protective Services Law" in the "Regulatory Issues and Frequently-Occurring Situations" section.

**Inspection Procedures:** Inspectors will review the training documentation to ensure it was provided by an individual certified as a trainer by a hospital or other recognized health care organization.

**Primary Benefit:** Ensures that staff persons receive proper training to respond to an emergency situation.

**58g**

3800.58(g) - Training in fire safety shall be completed by a fire safety expert or, in facilities serving 20 or fewer children, by a staff person trained by a fire safety expert. Video tapes prepared by a fire safety expert are acceptable for the training if accompanied by an onsite staff person trained by a fire safety expert.

**Discussion:** Please see "Staff Training" and "Training Requirements of the Child Protective Services Law" in the "Regulatory Issues and Frequently-Occurring Situations" section.

**Inspection Procedures:** Inspectors will review the training documentation for the staff to ensure it meets the regulation. Inspectors will review the fire safety expert's credentials if the fire safety training was provided by a fire safety expert or a staff person trained by a fire safety expert.

**Primary Benefit:** Ensures that all staff who work in the facility are properly trained in fire safety by a fire safety expert.

**58h**

3800.58(h) – A record of training including the person trained, date, source, content, length of each course and copies of any certificates received, shall be kept.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review the training record to ensure all of the required information is documented.

**Primary Benefit:** Allows the director to track each staff person's training progress throughout the year and provides evidence of successful training completion.

# PHYSICAL SITE

## Physical Accommodations and Equipment

81

3800.81 - The facility shall provide or arrange for physical site accommodations and equipment necessary to meet the health and safety needs of a child with a disability.

**Discussion:** This regulation is broad in scope, but relatively simple to apply. It means that the facility's physical site must be designed, arranged, or furnished to meet children's needs. In many cases, remedying a situation where a child's needs are not met can be achieved by moving furniture or relocating a child's bedroom. In some cases, more substantial changes (such as widening bathroom doors to accommodate children who use wheelchairs) may be required.

**Inspection Procedures:** Inspectors will identify all children with physical disabilities through record review and interviews. Inspectors will examine child equipment, bedrooms, common areas, and egress routes to determine if safe movement is possible. Inspectors will interview and observe children to confirm equipment needs and access.

**Primary Benefit:** Physical site accommodations and equipment that meet the needs of the children in the facility provide independence, enable a higher quality of life, and promote rapid evacuation during an emergency.

## Poisons

82a

3800.82(a) - Poisonous materials shall be kept locked and inaccessible to children.

82b

3800.82(b) - Poisonous materials shall be stored in their original, labeled containers.

82c

3800.82(c) - Poisonous materials shall be kept separate from food, food preparation surfaces and dining surfaces.

**Discussion:** "Poisonous materials" include any item labeled "seek medical attention if swallowed" or "contact Poison Control Center if swallowed."

If poisonous materials are utilized by children, they must do so only under the direct supervision of staff.

Remember that some items that are not "poisonous" may still be hazardous to children who cannot safely use them. For example, behavioral disorders or mental illness may cause a child to chronically drink mouthwash, eat deodorant, and so on. If a child misuses a non-poisonous item, the facility may be in violation of § 3800.141-142, § 3800.32(b), and other regulations relating to child care.

Cleaning products may be purchased in bulk containers, but spray bottles and stick-on manufacturer's labels provided by the cleaning supply company and manufacturer must be used.

Cleaning supplies and detergents may be stored in the kitchen, but these substances must be stored in a cabinet or other area that does not contain food.

Any item labeled, "keep out of reach of children" but not considered a "poisonous material" per the standards defined above, might still be considered hazardous in accordance with § 3800.95.

**Inspection Procedures:** During the facility's physical site inspection, inspectors will examine all cleaning supplies, detergents and other potentially poisonous substances to determine if they are stored in their original, labeled containers. If an item is not labeled but appears in a spray bottle or similar device, inspectors will assume the unknown material contains a poisonous substance. Inspectors will also examine the kitchen, dining room, and food storage areas to determine if poisonous materials are stored near food, food preparation surfaces, or dining surfaces.

**Primary Benefit:** Protects children from illness, injury, or death related to misuse of accessible poisons. Minimizes the possibility that a child or staff person will mistake a poisonous substance for a harmless substance. Minimizes the risk of food contamination, illness, or death from improperly stored poisons.

**Exceptions:** Regulation § 3800.82 does not apply to transitional living facilities unless toddlers live in the facility (as per § 3800.292).

### Heat Sources

83

3800.83 - Heat sources, such as hot water pipes, fixed space heaters, hot water heaters and radiators, exceeding 120°F that are accessible to children, shall be equipped with protective guards or insulation to prevent children from coming in contact with the heat source.

**Discussion:** Regulation § 3800.83 applies to areas accessible to children.

Facilities that use cooking fuels like Sterno, steam tables or other heating devices during food preparation and delivery should take care that hot surfaces are insulated or equipped with protective guards. Cooking fuels should also be stored in a manner consistent with § 3800.125(a) and § 3800.125(b).

Portable space heaters are extremely dangerous, and have resulted in many fires. All types of portable space heaters are prohibited. Any type of heater that is designed by the manufacturer to be moved from place to place is considered portable and is prohibited.

This includes the use of kerosene burning portable heaters.

Portable space heaters are prohibited throughout the entire facility, including all areas of the building such as staff areas, offices, conference rooms, laundry rooms and staff/operator private dwelling areas. If the facility is located in a public building such as an apartment building, this requirement applies only to the areas of the building used by the children.

There is no required height or width for fireplaces, but it is important that the screen or guard provide sufficient coverage of the fireplace to prevent ashes and sparks from exiting the fireplace. The screen or guard should also prevent children from coming into contact with heat and ash. A staff person must be in the room and in direct visual contact with the children and the fireplace at all times a fire place is in use.

See §§ 3800.127, 129.

**Inspection Procedures:** Inspectors will examine heat sources that are accessible to children and determine if they are insulated or equipped with protective guards.

**Primary Benefit:** Minimizes the risk that children will suffer burns by coming into contact with exposed heat sources. Portable space heaters are a frequent cause of fire and cause burns to children who come into contact with them. Use of wood- and coal-burning stoves increases the risk of fire and carbon monoxide poisoning. Supervision when using properly-screened fireplaces protects children from accidental injury.

**Exceptions:** Regulation § 3800.83 does not apply to transitional living facilities unless toddlers live in the facility (as per § 3800.292). Regulation § 3800.83 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

## Sanitation

<b>84a</b>	3800.84(a) - Sanitary conditions shall be maintained.
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**Discussion:** "Sanitary conditions" can include many different situations in a facility. While unsanitary conditions will often be determined on a case-by-case basis, they generally include the following:

- Feces, human or animal
- Urine, human or animal
- Bodily fluids, such as blood, mucus, vomit, or semen
- Rotten or spoiled foods
- The presence of mold or mildew
- Pungent odors
- Extremely unclean surfaces

According to the Centers for Disease Control (CDC), insulin vials and penlet devices should not be used for more than one person. These precautions help to prevent the transmission of the Hepatitis B virus, Hepatitis C virus, and HIV. Each child who is prescribed insulin must have his/her own insulin vial, syringe, lancets, testing strips, and glucometer. It is recommended that these items be labeled with the child's name or stored in a container that is labeled with the child's name.

**Inspection Procedures:** Inspectors will examine all areas of the facility to determine if unsanitary conditions exist. Inspectors will interview the director and staff regarding universal precautions. Inspectors will examine staff during the course of the inspection for the implementation of universal precautions.

**Primary Benefit:** Greatly minimizes the risk of child illness, rodent and insect infestation, and provides dignified living conditions for children.

<b>84b</b>	3800.84(b) - There may be no evidence of infestation of insects or rodents in the facility.
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**Discussion:** For the purposes of applying this regulation, "infestation" means enough rodents or insects to be harmful, threatening, or repulsive. A large number of mouse droppings in multiple parts of the facility, large numbers of ants near food or food preparation surfaces, and the presence of bedbugs or cockroaches all serve as evidence of infestation.

Many pests and insects such as bedbugs and cockroaches reproduce very quickly. Therefore, not many must be actually observed to constitute infestation. It is important for the facility to regularly examine child beds for bedbugs and moist, humid areas of the facility for cockroaches. Proactive treatment is much preferred to pest control after an infestation has occurred.

The presence of houseflies does not necessarily indicate infestation, unless the number of flies is so great that they become significantly bothersome to children.

A facility is not prohibited from using mousetraps, fly strips, or other types of traps, but it is important that they are not placed in an area where they could cause injury to children. Furthermore, the use of traps does not guarantee a regulatory violation. Rodent or insect traps in areas of the facility not accessible to children can be beneficial to stopping an infestation before it starts. The facility should also regularly monitor, empty or discard mousetraps and fly strips to prevent an unsanitary condition, which could be a violation of § 3800.84(a).

**Inspection Procedures:** Inspectors will examine all areas of the facility to determine if signs of infestation are present. If mousetraps, fly strips, or other traps are present, inspectors will interview the director, staff, and children to determine the severity of the problem and what actions are being taken to control it.

**Primary Benefit:** Greatly minimizes the risk of illness and food contamination, and provides dignified living conditions for children.

**Exceptions:** Regulations § 3800.84(b)-(e) do not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

84c	3800.84(c) - Trash shall be removed from the premises at least once a week.
<p><b>Discussion:</b> Many facilities utilize exterior commercial trash compactors that are emptied every 2-3 weeks by a contracted company. If the facility's compactor is enclosed to prevent rodent access, it meets the intent of the regulation and will not be considered a violation.</p> <p><b>Inspection Procedures:</b> Inspectors will interview the director to determine how trash removal is accomplished. If the facility's dumpster or exterior garbage cans contain an excessive amount of trash, inspectors will ask the director for documentation that the facility has a contract with a trash removal service.</p> <p><b>Primary Benefit:</b> Prevents rodent infestation and the spread of disease.</p> <p><b>Exceptions:</b> Regulations § 3800.84(b)-(e) do not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).</p>	
84d	3800.84(d) - Trash in kitchens and bathrooms shall be kept in covered trash receptacles that prevent the penetration of insects and rodents.
<p><b>Discussion:</b> This applies to all bathrooms, including staff bathrooms and those used by only one child. If trash receptacles in staff bathrooms and bathrooms used by only one child are emptied daily, the can does not need to be covered.</p> <p>If the trash receptacle in a bathroom is stored inside a closed cabinet that does not allow penetration by insects and rodents, then a lid is not required.</p> <p>Lids may be removed from trash receptacles in kitchen areas when they are actively in use, such as during clean up or food preparation.</p> <p>A trash receptacle with a step-operated lid is recommended to avoid the spread of disease by touching the lid. For children who are unable to use a trash receptacle with a step-operated lid, a trash receptacle with a push-in lid is recommended.</p> <p><b>Inspection Procedures:</b> Inspectors will examine trash receptacles in the kitchen and bathrooms throughout the facility to determine if lids are in place or they are located in closed cabinets.</p> <p><b>Primary Benefit:</b> Covered trash receptacles prevent the spread of disease through exposure to body fluids. The risk of insect and rodent infestation due to open food containers is also minimized.</p> <p><b>Exceptions:</b> Regulations § 3800.84(b)-(e) do not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).</p>	
84e	3800.84(e) - Trash outside the facility shall be kept in closed receptacles that prevent the penetration of insects and rodents.
<p><b>Discussion:</b> Many facilities utilize exterior commercial trash compactors that are emptied every 2-3 weeks by a contracted company. If the facility's compactor is enclosed to prevent rodent access, it meets the intent of the regulation and will not be considered a violation.</p> <p>Exterior recycling containers are not required to be lidded, but it is recommended that recyclables be rinsed thoroughly before being placed in an outside bin.</p> <p><b>Inspection Procedures:</b> Inspectors will examine the facility's dumpster or exterior garbage cans to ensure that lids are in place and that they are secured in such a way that infestation is prevented.</p> <p><b>Primary Benefit:</b> Covered trash receptacles prevent the spread of disease through exposure to body fluids. The risk of insect and rodent infestation due to open food containers is also minimized. Rodent or insect infestation in exterior trash containers raises the risk that the interior of the facility will become infested. Additionally, secured trash containers are less likely to attract wild animals.</p> <p><b>Exceptions:</b> Regulations § 3800.84(b)-(e) do not apply to outdoor and mobile programs that operate from</p>	

nonstationary settings (as per § 3800.302).

### Ventilation

85

3800.85 - Living areas, recreation areas, dining areas, bathrooms, bedrooms and kitchens shall be ventilated by at least one operable window or mechanical ventilation.

**Discussion:** The areas identified above must have windows, air conditioning, a fan, OR mechanical ventilation to provide airflow. It is recommended that mechanical ventilation provide a system of air exchange. An exhaust fan that circulates air in a bathroom is sufficient.

**Inspection Procedures:** Inspectors will examine all areas of the facility to ensure that at least one source of ventilation is present and operable.

**Primary Benefit:** Good air circulation throughout the facility clears dust from the air. Dust exacerbates medical conditions like asthma and is the source of allergies for many individuals. Good air circulation also helps to prevent the build-up of mold, mildew, and odor.

**Exceptions:** Regulation § 3800.85 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.85 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

### Lighting

86

3800.86 - Rooms, hallways, interior stairs, outside steps, outside doorways, porches, ramps and fire escapes shall be lighted to avoid accidents.

**Discussion:** The kind of lighting required by this regulation is dependent on the needs of the children. Compliance with this regulation may simply require standard lighting, or may require more sophisticated elements such as special lighting to mark the walkways and exits.

If outside lights near egress routes are not activated at all times, the facility should ensure that switches for these lights are easily located and activated along the path of egress. It is important that all children can use these lights during an emergency to evacuate safely.

**Inspection Procedures:** Inspectors will examine the aforementioned areas to determine if they are lighted and marked for safe evacuation based on the needs of the children served.

**Primary Benefit:** Ensures a rapid evacuation in the event of an emergency, and minimizes the risk of falls or other injuries due to inadequate illumination.

**Exceptions:** Regulation § 3800.86 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.86 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

## Surfaces

**87a**

3800.87(a) – Floors, walls, ceilings, windows, doors and other surfaces shall be free of hazards.

**Discussion: Cosmetics versus Hazards** - This regulation usually does not include minor cosmetic repairs such as faded wallpaper or paint, worn carpeting, or minor damage to baseboards from wheelchairs. However, if the surfaces in a facility are in advanced disrepair, a violation may be cited. Hazardous conditions that result from surface damage – such as peeling paint in a dining area, splintered edges on a doorframe, or frayed carpet that creates a tripping hazard – will be considered a violation.

**What is a Hazard?** - There is no single list of what constitutes a “hazard.” While some hazards may be obvious (such as collapsing ceilings and protruding nails), others will be dictated by the needs of the children served in the facility. For example, a sloped floor in an older home may not pose a risk to some residents, but could constitute a fall risk for a child with mobility needs. Potentially hazardous conditions will be determined on a case-by-case basis. In some cases, the Department will cite a violation of this regulation if a door leading to a basement, shed, attic, or other part of the facility where there are possible hazardous conditions and materials is unlocked.

**Inspection Procedures:** Inspectors will examine all areas of the facility to determine if surfaces are clean, in good repair and free of hazards. Inspectors will observe children in conjunction with record review and interviews. Situations that constitute a hazard will often be decided on a case-by-case basis depending on the children served.

**Primary Benefit:** Safe surfaces help to maintain sanitary conditions in the facility, minimize the risk that children will suffer an injury while ambulating, and provide dignified living conditions.

**Exceptions:** Regulation § 3800.87 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

**87b**

3800.87(b) - If the facility was constructed before 1978 and serves one or more children who are 2 years of age or younger or who are likely to ingest inedible substances, the facility shall test all layers of interior paint in the facility and exterior paint and soil accessible in the play and recreation areas, for lead content. If lead content exceeds .06% in wet paint, .5% in a paint chip sample or 400 ppm in the soil, lead remediation activity is required based on recommendations of the Department of Health. Documentation of lead testing, results and corrections made shall be kept.

**Discussion:** Facilities constructed prior to 1978 are more likely to contain lead paint. Exposure to lead in young children can have a wide range of effects on a child’s development and behavior including hyperactivity, learning disabilities, delayed growth, and hearing loss.

This regulation is only applicable if the facility (or any part of it) was constructed prior to 1978, and ONE OR BOTH of the following conditions are met:

- The facility has served one or more children 2 years of age or younger since the previous inspection.
- The facility has served one or more children of any age who are likely to ingest inedible substances due to a behavioral disorder or mental illness since the previous inspection.

**Inspection Procedures:** Inspectors will determine the year of the building’s construction by reviewing the facility’s documentation of construction year, determine if any children who are 2 years of age or younger are served by the facility, and determine if any children who are served by the facility have a history of ingesting inedible substances. If children who meet the criteria of 2 and/or 3 are served by the home, verify that lead testing has been completed.

**Primary Benefit:** A facility free of lead paint protects children from health and developmental issues.

**Exceptions:** Regulation § 3800.87 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

## Water

**88a**

3800.88(a) - The facility shall have hot and cold water under pressure.

**Discussion:** This regulation requires that the facility has hot and cold running water and that the water pressure is sufficient to meet the bathing, cleaning, and sanitation needs of the facility. The water temperature must be warm enough for comfortable bathing without exceeding the maximum allowable water temperature.

**Inspection Procedures:** Inspectors will interview staff and children to verify that the hot water temperature is comfortable for bathing and if there is sufficient hot water supply at all times to meet total demand for water. Inspectors may test the water pressure at various locations throughout the facility.

**Primary Benefit:** Ensures that the facility's water supply is sufficient to meet children's needs for hygiene and comfort.

**Exceptions:** Regulation § 3800.88 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.88(a) does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

**88b**

3800.88(b) - Hot water temperature in areas accessible to children may not exceed 120°F.

**Discussion:** Water from any tap that is accessible to children may not exceed 120°F. A variance of 2°F is permitted, but inspectors will recommend that the hot water temperature be lowered for child safety.

**Inspection Procedures:** Inspectors will test the water temperature at a sample of areas throughout the facility, including bathtub and shower faucets. If the facility has multiple water heaters, inspectors will test the water temperature at taps served by each heater. The sample of measured taps will include a tap nearest the heater(s). Water temperature may be measured by running the hot water for 30 seconds and then placing a thermometer into the water stream or into a cup placed under the water stream. A variance of 2°F is permitted, but inspectors will recommend that the hot water temperature be lowered for child safety.

**Primary Benefit:** Ensures that the facility's water supply is sufficient to meet children's needs for hygiene and comfort, and prevents against accidental scalding.

**Exceptions:** Regulation § 3800.88(b) does not apply to transitional living facilities unless toddlers live in the facility (as per § 3800.292).

**Exceptions:** Regulation § 3800.88 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).



<b>88c</b>	3800.88(c) - A facility that is not connected to a public water system shall have a coliform water test at least every 3 months, by a Department of Environmental Protection-certified laboratory, stating that the water is safe for drinking. Documentation of the certification shall be kept.
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**Discussion:** This applies to facilities on private wells, even if the facilities use bottled water for drinking or have purification systems.

If § 3800.252 applies, the duration, frequency, and content of the sanitation approval are governed by the municipal authority, not by the Department.

It is possible that a facility's local sewage enforcement official will not give written approval for a sewage system that was installed without his/her participation in the construction and testing. In this case, it is important for the facility to work closely with the sewage enforcement official and the Department of Environmental Protection to establish a plan for coming into compliance with this regulation. Facilities are encouraged to contact the Department for guidance as well.

If a facility is found to be out of compliance with § 3800.88(c) because a coliform test has not been completed, or because the coliform test results are abnormal, the inspector should contact their immediate supervisor or the Department for guidance. A facility may be required to take immediate action to meet the health and safety needs of the children in care, such as utilizing bottled water for drinking and cooking, until such a time an approved test can be obtained.

**Inspection Procedures:** Inspectors will determine if the facility has non-public water (i.e. well water and a septic tank), and determine if the facility has a capacity of 9 or more children. If the facility has non-public water but has a capacity of 8 or less, inspectors will verify that coliform water tests have been performed every three months since the last inspection by a certified laboratory. If the facility has non-public water and has a capacity of 9 or more, inspectors will verify that coliform water tests have been performed every three months since the last inspection by a certified laboratory, AND that the facility has written approval for its sanitation system.

**Primary Benefit:** Ensures that water in facilities with private water sources is safe for use, and, if applicable, that the sewage system is properly designed and installed so as to minimize the spread of disease and damage to the environment or to the facility.

**Exceptions:** Regulation § 3800.88 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

## Temperature

**89a**

3800.89(a) - Indoor temperature shall be at least 65°F during awake hours when children are present in the facility.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will measure the internal temperature at multiple locations throughout the facility. A range of 2°F is permitted. Inspectors may also conduct staff and child interviews.

**Primary Benefit:** Maintains an environment that is comfortable for all children and reduces the likelihood that children and children with special medical needs will be medically compromised by temperature extremes.

**Exceptions:** Regulation § 3800.89 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

**89b**

3800.89(b) - Indoor temperature may not be less than 62°F during sleeping hours.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will measure the internal temperature at multiple locations throughout the facility. A range of 2°F is permitted. Inspectors may also conduct staff and child interviews.

**Primary Benefit:** Maintains an environment that is comfortable for all children and reduces the likelihood that children and children with special medical needs will be medically compromised by temperature extremes.

**Exceptions:** Regulation § 3800.89 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

**89c**

3800.89(c) - When indoor temperature exceeds 90°F, mechanical ventilation such as fans or air conditioning shall be used.

**Discussion:** It is strongly recommended that a facility use air conditioning in at least a portion of the facility during very hot weather. If fans are used, they may be portable and do not need to vent to the outside.

**Inspection Procedures:** Inspectors will measure the internal temperature at multiple locations throughout the facility. A range of 2°F is permitted. Inspectors may also conduct staff and child interviews.

**Primary Benefit:** Maintains an environment that is comfortable for all children and reduces the likelihood that children and children with special medical needs will be medically compromised by temperature extremes.

**Exceptions:** Regulation § 3800.89 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

### Communication System

90a

3800.90(a) - The facility shall have a working, noncoin-operated, telephone with an outside line that is accessible to staff persons in emergencies.

**Discussion:** Each separate licensed building must be equipped with a telephone that will work in the event of a power outage. If the landline telephone is cordless or web-based, a functioning cell phone must be present on the premises.

**Inspection Procedures:** Inspectors will examine the facility's telephone to determine if it is operable and in a location where all children and staff can access it.

**Primary Benefit:** An accessible telephone ensures that emergency services can be contacted quickly when needed.

**Exceptions:** Regulation § 3800.90 does not apply to transitional living facilities (as per § 3800.292). Regulation § 3800.90(a) does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.90(a) does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

90b

3800.90(b) - The facility shall have a communication system to allow staff persons to contact other staff persons in the facility for assistance in an emergency.

**Discussion:** The type of communication system will vary depending on the size and layout of the facility. If a facility is physically structured so that staff can call out for assistance and be heard throughout the facility, an electronic system is not required. Electronic systems may include 2-way walkie-talkies, cell phones, pagers, and intercom systems.

**Inspection Procedures:** Inspectors will interview the director and staff regarding communication in the facility, and observe staff communication processes throughout the course of the inspection.

**Primary Benefit:** A system of communication ensures quick response in the event of an emergency.

**Exceptions:** Regulation § 3800.90 does not apply to transitional living facilities (as per § 3800.292).

### Emergency Telephone Numbers

91

3800.91 - Telephone numbers for the nearest hospital, police department, fire department, ambulance and poison control center shall be posted on or by each telephone with an outside line.

**Discussion:** Facilities occasionally view the need to have emergency numbers at every telephone as excessive; however, it is important to remember that emergency situations are unpredictable. If emergency assistance is required, staff, children, and visitors must be able to reach assistance immediately.

It is acceptable to post 911 if that number is used to contact the hospital, ambulance, police, and fire departments.

**Inspection Procedures:** Inspectors will examine all telephones accessible to staff or children to ensure the required numbers are posted.

**Primary Benefit:** Posting emergency numbers aids a rapid response from the appropriate agency in the event of an emergency.

**Exceptions:** Regulation § 3800.91 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.91 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

## Screens

92

3800.92 - Windows, including windows in doors, shall be securely screened when doors or windows are open.

**Discussion:** Windows need screens only if they open.

**Inspection Procedures:** Inspectors will examine all windows in the facility to determine if broken glass is present and to ensure they are free from splinters or other protrusions that present a hazard. If windows without screens are present, inspectors will verify that the windows do not open.

**Primary Benefit:** Screens in windows lower the risk of insect or rodent infestation.

**Exceptions:** Regulation § 3800.92 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.92 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

## Handrails and Railings

93a

3800.93(a) - Each ramp, interior stairway and outside steps exceeding two steps shall have a well secured handrail.

93b

3800.93(b) - Each porch that has over an 18-inch drop shall have a well-secured railing.

**Discussion:** This includes stairs and steps of any number or height. It is recommended that there be a handrail on both sides of the stairs or, if there is just one handrail, that it be right-hand descending.

For areas that have one or two steps, such as the entrance to a facility, it is acceptable to attach a handle to the doorway next to the steps. It is recommended, however, that all handrails be stable, freestanding, or attached parallel to the stairs and horizontally-descending.

It is important to remember that serious falls can occur even in an area where there is only one step. A facility should assess all children to determine what type of handrail is most appropriate.

**Inspection Procedures:** Inspectors will verify that handrails are present at all ramps and stairways.

**Primary Benefit:** Handrails prevent falls and provide for safe evacuation during an emergency. Secure railings reduce the risk of injurious falls.

**Exceptions:** Regulation § 3800.93 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.93 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

## Landings and Stairs

94a

3800.94(a) - There shall be a landing which is at least as wide as the doorway, beyond each interior and exterior door which opens directly into a stairway.

**Discussion:** This requirement does not apply if a door opens away from the stairway (that is, when one opens the door, (s)he must step back from the stairs). This applies only to an inside or outside door that opens toward or into a downward stairway. This does not apply to a porch or deck with only one or two steps. It may be possible to reverse the swing of the door to open away from the stairs. If this affects an egress route, however, approval from the local building authority may be required before a door swing is changed or a landing is installed.

For information regarding renovations that may require a new fire safety approval, see § 3800.14(c).

**Inspection Procedures:** Inspectors will examine stairways throughout the facility to ensure that a landing of the required size is present.

**Primary Benefit:** Reduces the risk of falling when entering a stairwell.

**Exceptions:** Regulation § 3800.94 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

94b

3800.94(b) - Interior stairs shall have nonskid surfaces.

**Discussion:** A nonskid surface means a surface that is not slippery. Examples of nonskid surfaces include carpeting, a nonskid wax, rubber or metal strips on the edges of the stairs, or textured paint. Wood and concrete steps may or may not be slippery depending on the finish of the surface.

**Inspection Procedures:** Inspectors will examine the surface of all stairs and ramps in the facility to ensure that nonskid material is present.

**Primary Benefit:** Reduces the risk of falling when ascending or descending stairs.

**Exceptions:** Regulation § 3800.94 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

## Furniture and Equipment

<b>95a</b>	3800.95(a) - Furniture and equipment shall be free of hazards.
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**Discussion:** This regulation does not include cosmetic repairs such as worn fabric on a chair or dented tables. Only when hazardous conditions result from damage – such as exposed springs on a couch cushion, nails jutting from a table, or a frayed electrical cord – will such damage be considered a violation.

An excessive buildup of lint in the facility’s dryer may be cited as a hazard, as lint buildup is a serious fire risk.

**Inspection Procedures:** Inspectors will examine all areas of the facility to determine if furniture and equipment are free of hazards. This regulation should be cited only if a more specific regulation relating to damaged furniture does not exist.

**Primary Benefit:** Furniture and equipment that is free of hazards helps to maintain sanitary conditions in the facility and minimize the risk that children will suffer an injury while using the furniture or equipment.

<b>95b</b>	3800.95(b) - There shall be enough furniture to accommodate the largest group of children that may routinely congregate in a room at any given time.
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**Discussion:** This regulation applies to all areas of the facility where children may congregate, including the living room, dining room, and recreational space.

**Inspection Procedures:** Inspectors will determine if the facility is equipped with enough furniture to accommodate the largest group of children that may routinely congregate in a room at any given time .

**Primary Benefit:** Dedicated activity space creates a home-like atmosphere and fosters community interaction.

<b>95c</b>	3800.95(c) - Power equipment shall be kept in safe condition.
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<b>95d</b>	3800.95(d) - Power equipment, excluding normal household appliances, shall be stored in a place that is inaccessible to children.
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<b>95e</b>	3800.95(e) - Power equipment excluding normal household appliances, may not be used by children except under supervision of a staff person.
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**Discussion:** Indoor and outdoor power equipment should only be used by children if staff are providing direct supervision, meaning at least one staff person is observing the child/children at all times, at a minimum. Some children may need more intensive supervision than others. The level of supervision needed depends on the needs of each individual child.

**Inspection Procedures:** Inspectors will examine any observable power equipment to determine if it is kept in safe condition, as well as if it is stored in a place that is inaccessible to children. If power equipment is used by children, inspectors will conduct staff and child interviews to determine if children are being supervised while using power equipment. If possible, inspectors may observe the child using the power equipment to verify that the child is receiving supervision from a staff person in the facility.

**Primary Benefit:** Well-maintained power equipment and proper supervision when using it minimizes the risk that children will suffer an injury while using the power equipment.

### First Aid Supplies

96

3800.96 - The facility shall have a first aid manual, nonporous disposable gloves, antiseptic, adhesive bandages, gauze pads, thermometer, tape, scissors and syrup of Ipecac that are stored together.

**Discussion:** All items must be stored together to ensure they can be quickly located in the event of an emergency. It is recommended that these items are stored in a portable box or bin that can be transported easily if an injury occurs.

One area or first aid kit containing all of the items specified by this regulation is required in each facility. It is recommended that these items be provided on each floor of the facility or, in a large facility serving 30 or more children, in each wing/area of the facility. Supplementary areas or kits do not need to contain all of the items specified by this regulation, although it is recommended that each area or kit contain all of the items listed at a minimum.

The Department will not require that Syrup of Ipecac be available in the facility. Ipecac was once recommended by the American Academy of Pediatrics (AAP) as an important aspect of first aid for poisoning. The AAP has issued new guidelines that emphasize that Ipecac should NOT be used for poison control. If a facility chooses to have Syrup of Ipecac available in the facility, it should be administered to a child only under the direction of a physician or the Poison Control Center. Syrup of Ipecac is considered a medication and may be kept separately from the facility's first supplies in order to meet compliance with § 3800.181(b).

In certain cases, it may be necessary to make the first aid kit inaccessible to children for safety reasons. The first aid kit may be stored in a locked area as long as all staff who would use the kit have independent access to the area (i.e., have keys to a locked door or know the code to use a keypad lock).

**Inspection Procedures:** Inspectors will examine the contents of the facility's first aid kit to determine if all required items are present.

**Primary Benefit:** Ensures that facilities have the equipment needed to provide first aid in the event of an injury.

**Exceptions:** Regulation § 3800.96 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

### Elevators

97

3800.97 - Each elevator shall have a valid certificate of operation from the Department of Labor and Industry.

**Discussion:** Self-explanatory.

**Inspection Procedures:** If there is an elevator in the facility, inspectors will review the certificate of operation to determine if it is authentic and current.

**Primary Benefit:** Reduces risk of injury to children, staff, and visitors by ensuring that elevators are safe and free of hazards.

**Exceptions:** Regulation § 3800.97 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.97 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

### Indoor Activity Space

98

3800.98 - The facility shall have separate indoor activity space for activities such as studying, recreation and group activities.

**Discussion:** : The space required by this regulation may include a multi-purpose room, the facility's dining area, and one or more furnished living room or lounge areas.

**Inspection Procedures:** Inspectors will examine the facility's physical site and interview staff and children to determine if there is a location appropriate for holding activities.

**Primary Benefit:** Dedicated activity space creates a home-like atmosphere and fosters community interaction.

**Exceptions:** Regulation § 3800.98 does not apply to transitional living facilities (as per § 3800.292). Regulation § 3800.98 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.98 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.98 does not apply to day treatment facilities (as per § 3800.311).

### Recreation Space

99

3800.99 - The facility shall have regular access to outdoor, or large indoor, recreation space and equipment.

**Discussion:** The space required by § 3800.98 may include a multi-purpose room, the facility's dining area, and one or more furnished living room or lounge area. This regulation requires sufficient combined space to ensure that all children can be present in such an area at the same time. Outdoor recreation space may be a yard, porch, or a nearby park, if the park is within a reasonable walking distance and all children served by the facility are capable of walking there. It is recommended that the facility have this recreation space on the premises.

**Inspection Procedures:** Inspectors will examine the facility's physical site and interview staff and children to determine if there is regular access to outdoor, or large indoor, recreation space and equipment.

**Primary Benefit:** Dedicated activity space creates a home-like atmosphere and fosters community interaction. Regular access to recreational space and materials promotes community interaction and can be educational and stimulating.

**Exceptions:** Regulation § 3800.99 does not apply to transitional living facilities (as per § 3800.292). Regulation § 3800.99 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.99 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).



## Exterior Conditions

<b>100a</b>	3800.100(a) - The exterior of the building and the building grounds or yard shall be free of hazards.
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**Discussion:** There is no single list of what constitutes a "hazard." While some hazards may be obvious (such as broken glass on a walkway or poison ivy in an outdoor seating area), others will be dictated by the needs of the children served in the facility. For example, facilities with an unfenced pond, lake, or water feature on the premises must ensure that children's safety is maintained around such features. Potentially hazardous conditions will be determined on a case-by-case basis.

**Inspection Procedures:** Inspectors will examine all exterior areas of the facility to determine if the building and grounds are free of hazards. If an inspector identifies a potential hazard, the inspector will determine whether the potential hazard poses a risk to the population served by the facility through interviews and record reviews.

**Primary Benefit:** Minimizes the risk of death or injury to children when they are outdoors or when they are using outside areas for evacuation or recreation.

**Exceptions:** Regulation § 3800.100 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

<b>100b</b>	3800.100(a) - Outside walkways shall be free of ice, snow and obstruction.
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**Discussion:** All exterior doors, fire escapes, and exterior steps and ramps must be cleared of ice and snow within a short period of time after the snow stops to provide for safe egress in an emergency. A significant pile of leaves could be considered an obstruction. Leaves can be slippery when wet and cause an injury, so it is recommended that the facility regularly remove leaves from egress routes and recreational areas. Equipment, furniture, or trash left unattended on a walkway, steps, ramps, or fire escape can be considered an obstruction.

**Inspection Procedures:** Inspectors will examine exterior egress routes to determine if these areas are cleared of snow, ice, and obstructions. Inspectors will allow the facility a reasonable amount of time to clear ice and snow if inclement weather began or stopped shortly before or during an inspection.

**Primary Benefit:** Minimizes the risk of death or injury to children when they are outdoors or when they are using outside areas for evacuation or recreation.

**Exceptions:** Regulation § 3800.100 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

## Firearms and Weapons

<b>101</b>	3800.101 - Firearms, weapons and ammunition are not permitted in the facility or on the facility grounds, except for those carried by law enforcement personnel.
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**Discussion:** Weapons include firearms and other objects intended to inflict harm, such as stun guns, martial arts weapons, clubs, and bladed weapons such as swords, daggers, and fighting knives.

**Inspection Procedures:** Inspectors will make observations while conducting their physical site inspection of the facility. If firearms, weapons and/or ammunition is found, inspectors will cite this as a violation and may consult with the regional office regarding next steps.

**Primary Benefit:** Protects children from serious injury.

**Exceptions:** Regulation § 3800.101 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.101 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

### Child Bedrooms

<b>102a</b>	3800.102(a) - Each single bedroom shall have at least 70 square feet of floor space per child measured wall to wall, including space occupied by furniture.
<b>102b</b>	3800.102(b) - Each shared bedroom shall have at least 60 square feet of floor space per child measured wall to wall, including space occupied by furniture.

**Discussion:** A “bedroom” is a sleeping-chamber with walls that reach to the ceiling and that is accessible by one or more doorways. Dividing large or “barracks-style” rooms into “units” that are not separated by floor-to-ceiling walls to house more than four children is not acceptable.

It is important to remember that children who use assistive devices such as wheelchairs may need extra space to navigate a bedroom. If a room has sufficient square footage to meet this regulatory requirement, but the child occupying the room cannot safely navigate the room, the facility may be in violation of § 3800.81.

The majority of bedrooms in a facility are rectangular. Square footage in a rectangular bedroom is obtained by multiplying room length by room width. For example, a room that is 10 feet wide and 10 feet long has 100 square feet of floor space.

- To obtain square footage in rooms that are trapezoidal (that is, where two walls are the same size and two walls are differently sized), measure the lengths of the differently-sized walls, add them together, and multiply the result by the maximum distance between the differently-sized walls divided by two.
- To obtain square footage in rooms that are triangular, measure the distance between the wall of middle length and the point where the other walls meet. Multiply the result by the length of the wall of middle length and divide the resulting figure by two.
- To obtain square footage in rooms with more than 4 walls, split the room into smaller shapes and obtain the cumulative square footage.

**Inspection Procedures:** Inspectors will measure a sample of child bedrooms and obtain the rooms’ square footage. The sample will be expanded if a noncompliant room is found.

**Primary Benefit:** Provides sufficient space to ambulate in the event of an emergency and offers children a dignified amount of personal living space.

**Exceptions:** Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.102 does not apply to day treatment facilities (as per § 3800.311).

<b>102c</b>	3800.102(c) - No more than four children may share a bedroom.
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**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will observe child bedrooms and verify that no more than four children occupy each room.

**Primary Benefit:** Provides sufficient space to ambulate in the event of an emergency, offers children a dignified amount of personal living space, and reduces the spread of communicable diseases.

**Exceptions:** Regulation § 3800.102(c) does not apply to secure care facilities (as per § 3800.273). Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.102 does not apply to day treatment facilities (as per § 3800.311).

<b>102d</b>	3800.102(d) - Ceiling height in each bedroom shall be at least an average of 7 1/2 feet.
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**Discussion:** The term “average” as it relates to ceiling heights refers to bedrooms that have different heights in the ceiling (such as a room with eaves or a slanted ceiling).

**Inspection Procedures:** If the ceiling is level, inspectors will measure the height of the ceiling to verify that it is at least seven feet. For a room with a slanted ceiling, inspectors will measure the distance from the floor to the highest point, the lowest point, and at least two other areas of varying heights that are centrally located between the identified high and low points. These four measurements will then be averaged to determine ceiling height.

**Primary Benefit:** Adequate bedroom height prevents injury and offers children a dignified amount of personal living space.

**Exceptions:** Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.102 does not apply to day treatment facilities (as per § 3800.311).

<b>102e</b>	3800.102(e) - Each bedroom shall have a window with a source of natural light.
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**Discussion:** This regulation requires that children see natural light, not that rooms have a window with an outdoor view. Skylights and basement window wells that have direct exposure to natural light are permitted. It is important the facility regularly clear snow and ice from windows and leaves from window wells to ensure that light can penetrate the room.

Windows are not required to be operable. Ventilation is regulated in § 3800.85.

**Inspection Procedures:** Inspectors will examine bedroom windows throughout the facility to determine if exposure to natural light is provided.

**Primary Benefit:** Natural light provides both physiological and psychological benefits.

**Exceptions:** Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.102 does not apply to day treatment facilities (as per § 3800.311).

<b>102f1</b>	3800.102(f)(1) - Each child shall have the following in the bedroom: A bed with solid foundation and fire retardant mattress in good repair.
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**Discussion:** A clean, safe, and well-constructed bed is a key element in a child's overall quality of life.

A mattress is recognized as "fire retardant" if the mattress tags are labeled with:

- Federal standard 16 CFR Part 1632
- Federal standard 16 CFR Part 1633
- California code standards (TB603 compliant).
- A fire retardant mattress pad treated with a chemical flame retardant is acceptable in place of the fire retardant mattress.

If a facility's mattress tags are worn or torn and are unable to show that the mattress is fire retardant, the facility may provide documentation directly from the manufacturer stating that the mattresses in question have passed fire retardant tests.

**Inspection Procedures:** Inspectors will examine the children's beds to determine if they have a solid foundation, are in good repair, and also determine whether mattresses are fire retardant.

**Primary Benefit:** Beds that have solid foundations reduce the risk of injury and provide comfort. Fire retardant mattresses minimize the risk of fire and injury in the event of a fire.

**Exceptions:** Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.102 does not apply to day treatment facilities (as per § 3800.311).

102f2	3800.102(f)(2) - Each child shall have the following in the bedroom: A pillow and bedding appropriate for the temperature in the facility.
<p><b>Discussion:</b> It is recommended that the facility have a supply of bed linens for 1½ times the number of beds for each size of bed available (Example: 20 twin beds – 30 twin bed linens).</p> <p><b>Inspection Procedures:</b> Inspectors will examine the children’s bedrooms to determine if the required bed linens are present, clean and are appropriate for the temperature in the facility.</p> <p><b>Primary Benefit:</b> Pillows and bed linens provide comfort and warmth.</p> <p><b>Exceptions:</b> Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.102 does not apply to day treatment facilities (as per § 3800.311).</p>	
102f3	3800.102(f)(3) - Each child shall have the following in the bedroom: A storage area for clothing.
<p><b>Discussion:</b> If a child shares a bedroom with other children, the storage area for clothing may be shared with other children, provided there is sufficient space and a way to determine which area is for which child’s clothing. It is recommended that each child have his/her own storage area. It is recommended that closets have doors or curtains.</p> <p><b>Inspection Procedures:</b> Inspectors will examine the children’s bedrooms to determine if storage space in drawers and closets is available.</p> <p><b>Primary Benefit:</b> Storage areas ensure that children have a place to store clothing and personal belongings.</p> <p><b>Exceptions:</b> Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.102 does not apply to day treatment facilities (as per § 3800.311).</p>	
102g	3800.102(g) - Cots or portable beds are not permitted. This prohibition does not apply for the first 30 days of a child’s placement if a facility is given 7 days or less notice of the placement.
<p><b>Discussion:</b> Self-explanatory.</p> <p><b>Inspection Procedures:</b> Inspectors will examine the children’s bedrooms to determine if cots or portable beds are in use.</p> <p><b>Primary Benefit:</b> Beds that are clean, in good repair, and meet specific children’s needs reduce the risk of injury, provide comfort, and create a more dignified living environment.</p> <p><b>Exceptions:</b> Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.102 does not apply to day treatment facilities (as per § 3800.311).</p>	
102h	3800.102(h) - Bunk beds shall allow enough space in between each bed and the ceiling to allow the child to sit up in bed.
<p><b>Discussion:</b> A bunk bed is a bed with the bottom of its mattress foundation more than 30 inches above the floor. Children under the age of 6 may not use the upper bunk of a bunk bed. Ladders must be used each time the child enters or exits the upper bunk. More than one person may not use the upper bunk at one time. Manufacturers are subject to federal regulations that mandate the size and length of safety rails on bunk beds. A facility may not remove or alter a safety rail and must follow all instructions provided by the manufacturer.</p> <p><b>Inspection Procedures:</b> Inspectors will examine the children’s bedrooms to determine if bunk beds or raised beds are in use, and will verify that there is enough space in between each bed and the ceiling to allow the child to sit up in bed.</p> <p><b>Primary Benefit:</b> Sufficient space between a bunk bed and the ceiling reduces the risk that children may be</p>	

injured from head injury or from being trapped between an upper bunk and the ceiling.

**Exceptions:** Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.102 does not apply to day treatment facilities (as per § 3800.311).

**102i**

3800.102(i) - Bunk beds shall be equipped with securely attached ladders capable of supporting a staff person.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will examine the children's bedrooms to determine if bunk beds are in use, and will verify that bunk beds are equipped with securely attached ladders capable of supporting a staff person.

**Primary Benefit:** Well-secured ladders reduce the risk of injury while ascending and descending bunk beds, and ensure that adult staff persons are able to safely access a child in his/her bunk bed in the event of an emergency.

**Exceptions:** Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.102 does not apply to day treatment facilities (as per § 3800.311).

**102j**

3800.102(j) - The top bunk of bunk beds shall be equipped with a secure safety rail on each open side and open end of the bunk.

**Discussion:** Three of the safety rails must be "continuous" meaning that the safety rail must cover the entire length of the side or end of the bed. The safety rail on the side of the bed with the ladder can have no more than a 15-inch gap between the safety rail and the end of the bed.

A safety rail is secure if it is in good repair and securely attached to the frame of the bed and cannot be unintentionally released from the fastening device.

**Inspection Procedures:** Inspectors will examine the children's bedrooms to determine if bunk beds are in use, and will verify that the top bunk of the bunk beds is equipped with a secure safety rail on each open side and open end of the bunk.

**Primary Benefit:** Secure safety rails reduce the risk that children will be injured because of improper, ill-fitting, or nonexistent rails.

**Exceptions:** Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.102 does not apply to day treatment facilities (as per § 3800.311).

**102k**

3800.102(k) - A bedroom may not be used as a means of egress from or access to another part of the facility.

**Discussion:** Although using a bedroom as a means of egress is prohibited, a bedroom may be used as an emergency exit if an egress route exists. During fire drills, this exit route should be used and practiced so that all children and staff know this emergency route. Children should be instructed to use this exit only in response to an emergency and not as a regular passageway. If a child's bedroom is used as an emergency exit, the bedroom door may not be locked at any time; otherwise, it is a violation of § 3800.121.

**Inspection Procedures:** If a child's bedroom is present that can be accessed from multiple parts of the facility or is equipped with an emergency exit, inspectors will interview children to determine if it is used as a passageway at any time other than an emergency.

**Primary Benefit:** Egress restrictions protect a child's privacy and dignity.

**Exceptions:** Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from

nonstationary settings (as per § 3800.302). Regulation § 3800.102 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.102 does not apply to day treatment facilities (as per § 3800.311).

### Bathrooms

**103a** 3800.103(a) - There shall be at least one flush toilet for every six children.

**Discussion:** Urinals will be counted as one half of a toilet toward ratios.

See "Bathing and Toileting" in "Regulatory Issues and Frequently-Occurring Situations" for more information.

**Inspection Procedures:** Inspectors will count the number of children in the facility, and verify if the facility has enough toilets to meet the 1:6 ratio.

**Primary Benefit:** Ensures that there are sufficient toilets to meet children's needs such that children may urinate or defecate without waiting.

**Exceptions:** Regulation § 3800.103 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.103 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.103(a) does not apply to day treatment facilities (as per § 3800.311).

**103b** 3800.103(b) - There shall be at least one sink for every six children.

**Discussion:** See "Bathing and Toileting" in "Regulatory Issues and Frequently-Occurring Situations" for more information.

**Inspection Procedures:** : Inspectors will count the number children in the facility, and verify if the facility has enough sinks to meet the 1:6 ratio.

**Primary Benefit:** Ensures that there are sufficient sinks to meet children's needs such that children may engage in self-care activities without waiting.

**Exceptions:** Regulation § 3800.103 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.103 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.103(b) does not apply to day treatment facilities (as per § 3800.311).

**103c** 3800.103(c) - There shall be at least one bathtub or shower for every six children.

**Discussion:** See "Bathing and Toileting" in "Regulatory Issues and Frequently-Occurring Situations" for more information.

**Inspection Procedures:** : Inspectors will count the number of children in the facility, and verify if the facility has enough bathtubs or showers to meet the 1:6 ratio.

**Primary Benefit:** Ensures that there are sufficient bathing facilities to meet children's needs such that children may engage in bathing activities without waiting.

**Exceptions:** Regulation § 3800.103 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.103 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.103(c) does not apply to day treatment facilities (as per § 3800.311).

**103d** 3800.103(d) - There shall be slip-resistant surfaces in all bathtubs and showers.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will examine the floor of bathtubs and showers to determine if slip-resistant

surfaces are present.

**Primary Benefit:** Slip-resistant surfaces prevent injurious falls while bathing.

**Exceptions:** Regulation § 3800.103 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.103 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.103(d) does not apply to day treatment facilities (as per § 3800.311).

<b>103e</b>	3800.103(e) - Privacy shall be provided for toilets, showers and bathtubs by partitions or doors.
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**Discussion:** In a multi-occupant bathroom, curtains are not usually appropriate as privacy screen, as their use would constitute a violation of dignity pursuant to § 3800.32(c).

**Inspection Procedures:** Inspectors will examine bathrooms throughout the facility to ensure that privacy is afforded to children through the use of a door or partition.

**Primary Benefit:** Doors and partitions on toilet and bathing areas protect children's privacy.

**Exceptions:** Regulation § 3800.103 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.103 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

<b>103f</b>	3800.103(f) - There shall be at least one wall mirror for every six children.
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**Discussion:** A large wall mirror extending over more than one sink will be counted as individual mirrors equal to the number of sinks that it covers.

See "Bathing and Toileting" in "Regulatory Issues and Frequently-Occurring Situations" for more information.

**Inspection Procedures:** Inspectors will count the number of children in the facility, and verify if the facility has enough mirrors to meet the 1:6 ratio.

**Primary Benefit:** Ensures that there are sufficient mirrors to meet children's needs such that children may engage in self-care activities without waiting.

**Exceptions:** Regulation § 3800.103(f) does not apply to secure care facilities (as per § 3800.273). Regulation § 3800.103 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.103 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.103(f) does not apply to day treatment facilities (as per § 3800.311).

<b>103g</b>	3800.103(g) - An individual towel, washcloth, comb, hairbrush and toothbrush shall be provided for each child.
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<b>103h</b>	3800.103(h) - Toiletry items including toothpaste, shampoo, deodorant and soap shall be provided.
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<b>103i</b>	3800.103(i) - Bar soap is not permitted unless there is a separate bar clearly labeled for each child.
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**Discussion:** Soap dispensers are not required for a bathroom used by only one child. Labeling of bar soap is not required for a bathroom used by only one child.

**Inspection Procedures:** Inspectors will interview children to determine if they have been provided with the required toiletry items.

**Primary Benefit:** The availability of these items enables children to practice good hygiene and prevents the spread of disease.

**Exceptions:** Regulation § 3800.103 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.103 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulations §§ 3800.103(g), (h) do not apply to day treatment facilities (as per § 3800.311).

### Kitchen Areas

**104a**

3800.104(a) - A facility shall have a kitchen area with a refrigerator, sink, cooking equipment and cabinets for storage.

**Discussion:** This regulation does not require the full-service kitchen to be present in the facility; it may be in another building on the same grounds.

**Inspection Procedures:** Inspectors will inspect the kitchen areas of the facility to determine if it has the proper equipment as per the regulation.

**Primary Benefit:** Ensures that facilities have the necessary equipment to prepare meals.

**Exceptions:** Regulation § 3800.104 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.104 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.104(a) does not apply to day treatment facilities (as per § 3800.311).

**104b**

3800.104(b) - Utensils for eating, drinking and food serving and preparation shall be washed and rinsed after each use.

**Discussion:** It is recommended that facilities wash, rinse, and sanitize all items in accordance with 7 Pa.Code § 46.711-719 (related to cleaning and equipment of utensils).

Durable plates, cups, and utensils must be washed after each use. Disposable plates, cups, and utensils must be disposed of after each use.

**Inspection Procedures:** Inspectors will observe use of kitchenware, and will interview staff about use and washing of plates, cups, and utensils.

**Primary Benefit:** Ensures that utensils are appropriately cleaned to prevent the spread of disease.

**Exceptions:** Regulation § 3800.104 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.104 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

**104c**

3800.104(c) - Food shall be protected from contamination while being stored, prepared, transported and served.

**Discussion:** Proper food protection means protection from all forms of contamination, including contamination from dirt, insects, bacteria, and pesticides that may be present on produce and other foodstuffs.

**Inspection Procedures:** Inspectors will observe food storage, preparation, and serving procedures to verify that food is protected from contamination.

**Primary Benefit:** Protects children from food-borne illnesses.

**Exceptions:** Regulation § 3800.104 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.104 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

**104d**

3800.104(d) - Uneaten food from a person's dish may not be served again or used in the preparation of other dishes.

**Discussion:** Food that has been served to a child must be discarded regardless of the amount of food actually eaten.

**Inspection Procedures:** Inspectors will observe leftovers in storage (if applicable), and will ask staff who prepare food to describe the facility's food service procedures.

**Primary Benefit:** Protects children from food-borne illnesses.



**Exceptions:** Regulation § 3800.104 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.104 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

**104e**

3800.104(e) - Cold food shall be kept at or below 40°F. Hot food shall be kept at or above 140°F. Frozen food shall be kept at or below 0°F.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will observe the facility's frozen and refrigerated food storage areas to verify that food is stored at the required temperatures. If necessary, inspectors will verify temperature readings on the facility's thermometers with Department thermometers. Inspectors will take readings at times when temperatures have not been affected by the opening and closing of appliances associated with mealtimes.

**Primary Benefit:** Ensures that foods are stored at safe temperatures.

**Exceptions:** Regulation § 3800.104 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.104 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

### Laundry

**105**

3800.105 - Bed linens, towels, washcloths and clothing shall be laundered at least weekly.

**Discussion:** Bed linens, washcloths, and towels must be changed and laundered immediately following any contact with blood, urine, feces, or other unclean substances.

**Inspection Procedures:** Inspectors will examine linens and towels in the facility to ensure that they are clean, and will interview staff and children to determine how often linens and towels are changed.

**Primary Benefit:** Ensures that sanitary conditions are maintained.

**Exceptions:** Regulation § 3800.105 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.105 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.105 does not apply to day treatment facilities (as per § 3800.311).

## Swimming

<b>106a</b>	3800.106(a) - Above-ground and in-ground outdoor pools shall be fenced with a gate that is locked when the pool is not in use.
<b>106b</b>	3800.106(b) - Indoor pools shall be made inaccessible to children when not in use.

**Discussion:** Pool areas must be locked and inaccessible when not in use.

**Inspection Procedures:** If the facility has a swimming pool, inspectors will verify that the pool area is fenced with a gate that is locked when the pool is not in use. Inspectors will also verify that all pool areas are made inaccessible to children when not in use.

**Primary Benefit:** Minimizes the risk of death from accidental drowning.

**Exceptions:** Regulation § 3800.106 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

<b>106c</b>	3800.106(c) – A certified lifeguard shall be present with the children at all times while children are swimming.
<b>106d</b>	3800.106(d) – The certified lifeguard specified in subsection (c) may not be counted in the staff to child ratios specified in §§ 3800.54 and 3800.55 (relating to child care supervisor; and child care worker).

**Discussion:** All certified lifeguards shall have training that is current; copies of certification shall be kept on file in the facility's staff records.

**Inspection Procedures:** Inspectors will review certified lifeguards' qualifications by reviewing staff records.

**Primary Benefit:** Ensures that trained, qualified staff dedicated to this job duty is present to respond immediately in the event of an emergency.

**Exceptions:** Regulation § 3800.106 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

# FIRE SAFETY

## Unobstructed Egress

<b>121a</b>	3800.121(a) - Stairways, hallways, doorways, passageways and egress routes from rooms and from the building shall be unlocked and unobstructed, unless the fire safety approval specified in § 3800.14 (relating to fire safety approval) permits locking of certain means of egress. If a fire safety approval is not required in accordance with § 3800.14, means of egress may not be locked.
<b>121b</b>	3800.121(b) - Doors used for egress routes from rooms and from the building may not be equipped with key-locking devices, electronic card operated systems or other devices which prevent immediate egress of children from the building.

**Discussion:** § 3800.121(a)-(b) require that doors from rooms and from the building be “unlocked and unobstructed,” and prohibits the use of “key-locking devices, electronic card operated systems or other devices which prevent immediate egress of children from the building” unless the facility is permitted to lock doors based on its fire safety approval.

“Unblocked and unobstructed” means the egress routes (the ways to exit the building) are free of anything that could delay escape in the event of an emergency. Examples of obstructed egress include piles of clothing, poorly-placed furniture, or doors that “stick” due to damage or wood swelling.

“Fire safety approval” means that the facility was constructed in a way that slows or stops the progression of fire. Fire safety approval is documented on a certificate of occupancy (CO).

So: if a facility has any kind of delayed-egress mechanism on one or more egress route doors, and/or if one or more egress route doors are equipped with locks that cannot be immediately opened from the inside, then a violation exists unless the facility has the right kind of CO.

If the building does not require a CO pursuant to local building codes, no locking devices of any kind may be used.

If the building has a CO that was issued from the Department of Labor and Industry, and the CO shows a construction type other than C-5 or I-3, no locking devices of any kind may be used.

If the building has a Labor and Industry-issued CO showing C-5 or I-3 occupancy, or if the building has a CO issued by a local municipal building authority, locking devices may be acceptable depending on the type of device being used. In cases like this, the Department will consult with appropriate building code experts to determine if a violation exists.

**Inspection Procedures:** Inspectors will verify that egress routes are unblocked and unobstructed, and that only acceptable locks and devices are in use. Inspectors will review the facility’s certificate of occupancy, and may consult with the regional office regarding certain situations.

**Primary Benefit:** It is important to keep exits unblocked so people can escape in an emergency situation. If an egress-route door is locked with a device that prevents immediate egress, people will be unable to escape in the event of a fire or other emergency.

## Exits

122

3800.122 - If more than four children sleep above the ground floor, there shall be a minimum of two interior or exterior exits from each floor. If a fire escape is used as a means of egress, it shall be permanently installed.

**Discussion:** The need for multiple exits applies to every floor, including basements and attics, if more than four children sleep on that floor. It is strongly recommended that the exits be arranged to reduce the possibility that both will be blocked in the event of an emergency.

See also: §§ 3800.253, 254.

**Inspection Procedures:** Inspectors will verify that there are two interior or exterior exits from every floor, if more than four children sleep above the ground floor. If inspectors are unsure whether a specific facility requires a second exit from a given floor, inspectors will consult with the regional office.

**Primary Benefit:** Unlocked, unobstructed exits allow rapid escape during a fire or other emergency. Multiple exits reduce the chances that an exit path will be blocked during a fire or other emergency.

## Evacuation Procedures

123

3800.123 - There shall be written emergency evacuation procedures that include staff responsibilities, means of transportation and emergency location.

**Discussion:** If the facility has different procedures for different types of emergencies (such as fires, floods, tornadoes, bomb threat, hostage event, terror events, and so on), the "staff responsibilities" must reflect what staff will do in each of the different scenarios. The facility should take into consideration the different responses necessary to address emergencies affecting only the facility and emergencies affecting the entire community or region.

If a facility is located within 10 miles of a nuclear power plant, the facility must include in its emergency evacuation procedures plan a plan to evacuate to a location at least 10 miles from the power plant should an evacuation be ordered by emergency management officials during the facility's hours of operation.

It is recommended that the emergency evacuation procedures also include the following:

- Procedures for contacting each child's responsible parties in the event of an emergency.
- Procedures for ensuring each child's emergency medical information and prescribed medications are available at an emergency housing site.
- Telephone numbers for the local emergency management agency, the Pennsylvania Emergency Management Agency, and the emergency housing site.

**Inspection Procedures:** Inspectors will review the facility's written emergency evacuation procedures to determine if the information content required by the regulation is present.

**Primary Benefit:** Ensures that the facility is prepared to respond to localized and general emergencies.

### Notification of Local Fire Officials

124

3800.124 - The facility shall notify local fire officials in writing of the address of the facility, location of bedrooms and assistance needed to evacuate in an emergency. The notification shall be kept current.

**Discussion:** It is strongly recommended that the facility contact the local fire department before sending this information. Explain this requirement and ask how the information should be presented and whether additional information is required (i.e., a list of names, specific bedroom numbers, etc).

The notification should include the following information, at a minimum:

- The total capacity of the facility.
- A description of the general layout of the facility (number of floors, wings, etc). A diagram or blueprint of the facility is acceptable.
- A general description of the needs of the children served. This need not be child-specific; a description of the mobility needs of children the facility is willing to serve will suffice.

This information needs to be sent when the facility begins operation (either as new construction or when under new ownership). It should be updated when any of the information that appears above (or is requested by the fire department) changes.

It is recommended that written notification be sent by certified mail or facsimile to ensure documentation of receipt of the information by the fire company.

**Inspection Procedures:** Inspectors will verify that all of the content required by the regulation has been transmitted to the local fire officials. Evidence of receipt by the fire officials is recommended, but not required.

**Primary Benefit:** In the event of a fire or other emergency, the local fire department will usually arrive within a matter of minutes. Having advance knowledge of the layout of the facility and the needs of the children will help the fire department evacuate children quickly.

**Exceptions:** Regulation § 3800.124 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.124 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.124 does not apply to day treatment facilities (as per § 3800.311).

### Flammable and Combustible Materials

125a

3800.125(a) - Combustible materials may not be located near heat sources.

125b

3800.125(b) - Flammable materials shall be used safely, stored away from heat sources and inaccessible to children.

**Discussion:** "Near" means "touching" or "close enough to be ignited by the heat source." It is recommended that these materials not be stored under stairs or near egress paths to ensure that escape routes are not blocked by flames in the event of a fire.

"Combustible materials" means "materials that rapidly ignite, producing heat and/or light." "Flammable materials" means "materials capable of being readily or easily ignited."

Children may have personal items such as hair spray or aerosol air fresheners, provided that they and any other children who may access the items are able to use them safely and appropriately.

Facilities that use cooking fuels like Sterno, steam tables or other heating devices during food preparation and delivery should take care that hot surfaces are insulated or equipped with protective guards. Cooking fuels should also be stored in a manner consistent with § 3800.125(a) and § 3800.125(b).

See also § 3800.127.

**Inspection Procedures:** Inspectors will inspect all heat sources in the facility, and verify that combustible and flammable materials are not present in these areas. Inspectors will inspect all areas of the facility for unsecured flammable materials. Inspectors will also check storage areas that contain such materials to ensure that the areas are secured.

**Primary Benefit:** Combustible materials can be ignited by heat sources, leading to explosions and fires. Flammable materials can be ignited by heat sources, sparks, or static electricity, causing injury to children or damage to the facility.

### Furnaces

126

3800.126 - Furnaces shall be inspected and cleaned at least annually by a professional furnace cleaning company or trained maintenance staff persons. Documentation of the inspection and cleaning shall be kept.

**Discussion:** "Furnace" means the primary heating device used to warm the facility.

Examples of a "trained maintenance staff person" include a person who has been trained by the company that installed the furnace or by a professional cleaning company.

It is strongly recommended that facilities install carbon monoxide alarms unless they are operated solely by electric power (that is, if they do not have a furnace). Alarms should be placed at least 5 feet above the floor, or on the ceiling near each bedroom area, and approximately 5 feet from each fuel burning appliance. Fuel burning appliances include non-electric powered furnaces, cloth dryers, and stoves. Carbon monoxide alarms must be approved by the Underwriters Laboratories, and bear the label "UL2034." Manufacturer's directions must be followed regarding the proper installation and maintenance of the device.

**Inspection Procedures:** Inspectors will verify that the facility's heating source has been inspected and cleaned within the past 12 months of the inspection.

**Primary Benefit:** Ensures that the facility's furnace will produce heat and that children are protected from carbon monoxide poisoning.

### Portable Space Heaters

127

3800.127 - Portable space heaters, defined as heaters that are not permanently mounted or installed, are not permitted in the facility.

**Discussion:** Portable space heaters are extremely dangerous, and have resulted in many fires. Any type of heater that is designed by the manufacturer to be moved from place to place is considered portable and is prohibited. This includes the use of kerosene burning portable heaters. Portable space heaters are prohibited throughout the entire facility, including all areas of the building such as staff areas, offices, conference rooms, laundry rooms and staff/operator private dwelling areas. If the facility is located in a public building such as an apartment building, this requirement applies only to the areas of the building used by the children.

**Inspection Procedures:** Inspectors will inspect the facility's physical site, and interview staff and children to determine if portable heaters are used.

**Primary Benefit:** Portable space heaters are a frequent cause of fire and cause burns to children who come into contact with them.

### Wood and Coal Burning Stoves

128

3800.128 - The use of wood and coal burning stoves is not permitted.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will verify during the physical site inspection that a facility is not using wood and/or coal burning stoves.

**Primary Benefit:** Minimizes the risk of fire and carbon monoxide poisoning.

## Fireplaces

<b>129a</b>	3800.129(a) - Fireplaces shall be securely screened or equipped with protective guards while in use.
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**Discussion:** There is no required height or width for fireplaces, but it is important that the screen or guard provide sufficient coverage of the fireplace to prevent ashes and sparks from exiting the fireplace. The screen or guard should also prevent children from coming into contact with heat and ash.

**Inspection Procedures:** If the facility is equipped with a fireplace, inspectors will determine if it is properly screened or equipped with a protective guard.

**Primary Benefit:** Fireplace screens and guards protect children from injury and reduce the risk of fire.

<b>129b</b>	3800.129(b) - A staff person shall be present with the children while a fireplace is in use.
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**Discussion:** A staff person must be in the room and in direct visual contact with the children and the fireplace at all times a fire place is in use.

**Inspection Procedures:** Inspectors will interview staff and children to ensure that staff are always present with the children while a fireplace is in use. Inspectors may also observe staff and children while a fireplace is in use.

**Primary Benefit:** Use of wood- and coal-burning stoves increases the risk of fire and carbon monoxide poisoning. Supervision when using properly-screened fireplaces protects children from accidental injury.

<b>129c</b>	3800.129(c) - A fireplace chimney and flue shall be cleaned when there is an accumulation of creosote. Written documentation of the cleaning shall be kept.
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**Discussion:** This regulation does not specify who must complete the cleaning, so the cleaning may be performed by anyone the facility wishes to do so. However, if the cleaning is performed improperly by an unqualified person and a child is harmed as a result, the facility may be subject to regulatory violations. It is recommended that this cleaning be conducted at least annually to prevent the build-up of creosote. This requirement does not apply if the fireplace is not used.

**Inspection Procedures:** If the facility is equipped with a fireplace that is used, inspectors will review documentation that the chimney has been cleaned. If the most recent cleaning was more than 12 months before the date of the inspection, inspectors will recommend that the facility have the chimney cleaned again as soon as possible.

**Primary Benefit:** Creosote accumulation is the leading cause of structure fires that begin in a fireplace. This required cleaning reduces the risk of fire.



## Smoke Detectors and Fire Alarms

**130a**

3800.130(a) - A facility shall have a minimum of one operable automatic smoke detector on each floor, including the basement and attic.

**Discussion:** "Automatic smoke detector" means a device activated automatically by the detection of heat and/or smoke that has been approved by the Department of Labor and Industry, the appropriate local building authority or local fire safety expert, or listed by Underwriters Laboratories. Most commercial smoke detectors and fire alarms are listed by Underwriters Laboratories.

This does not include a crawl space, but does include an area accessible by pull-down steps.

**Inspection Procedures:** Inspectors will inspect the facility's physical site to determine if the facility has a minimum of one operable automatic smoke detector on each floor, including the basement and attic.

**Primary Benefit:** Fires can spread quickly. Smoke detectors on each floor can alert children and staff of a fire before the smoke or fire is seen or smelled.

**Exceptions:** Regulation § 3800.130 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

**130b**

3800.130(b) - There shall be an operable automatic smoke detector located within 15 feet of each bedroom door.

**Discussion:** The detectors must be located in common hallways. Although smoke detectors in child bedrooms are not required, they are recommended in case a fire starts in the room.

**Inspection Procedures:** Inspectors will inspect the facility's physical site. Distance is obtained by standing directly below a hallway detector and measuring the distance to the floor at the center of the doorway entering a bedroom.

**Primary Benefit:** The deadliest fires occur when people are sleeping. Smoke detectors in hallways alert children of smoke or fire before the smoke or fire enters the room, allowing the child time to wake and react.

**Exceptions:** Regulation § 3800.130 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.130(b) does not apply to day treatment facilities (as per § 3800.311).

**130c**

3800.130(c) - The smoke detectors specified in subsections (a) and (b) shall be located in common areas or hallways.

**Discussion:** The detectors must be located in common areas or hallways. Although smoke detectors in child bedrooms are not required, they are recommended in case a fire starts in the room.

**Inspection Procedures:** Inspectors will inspect the facility's physical site to determine if the facility has automatic smoke detectors located in common areas or hallways.

**Primary Benefit:** The deadliest fires occur when people are sleeping. Smoke detectors in hallways alert children of smoke or fire before the smoke or fire enters the room, allowing the child time to wake and react.

**Exceptions:** Regulation § 3800.130 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

**130d**

3800.130(d) - Smoke detectors and fire alarms shall be of a type approved by the Department of Labor and Industry or listed by Underwriters Laboratories.

**Discussion:** Most commercial smoke detectors and fire alarms are listed by Underwriters Laboratories.

**Inspection Procedures:** Inspectors will request documentation that the facility's equipment meets one or more of these requirements. If the facility has an interconnected detector system installed prior to the issuance of the facility's certificate of occupancy, the system is compliant.

**Primary Benefit:** Approved smoke detectors and fire alarms ensure that the devices will function properly in the

event of a fire.

**Exceptions:** Regulation § 3800.130 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

**130e**

3800.130(e) - If the facility serves four or more children or if the facility has three or more stories including the basement and attic, there shall be at least one smoke detector on each floor interconnected and audible throughout the facility or an automatic fire alarm system that is audible throughout the facility.

**Discussion:** If a facility is equipped with interconnected smoke detectors and is found to be out of compliance with § 3800.130(b) in one or more locations, an additional detector that is not interconnected may be installed to achieve compliance.

It is recommended that all facilities, even those that serve three or fewer children or have two or fewer stories, have at least one smoke detector on each floor interconnected and audible throughout the facility or an automatic fire alarm system that is interconnected and audible throughout the facility.

**Inspection Procedures:** Inspectors will verify that this requirement is met by observing the system during the physical site inspection and reviewing documentation that the system is interconnected and functional.

**Primary Benefit:** Fires can spread quickly. Smoke detectors on each floor can alert children and staff of a fire before the smoke or fire is seen or smelled.

**Exceptions:** Regulation § 3800.130 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.130(e) does not apply to day treatment facilities (as per § 3800.311).

**130f**

3800.130(f) - If one or more children or staff persons are not able to hear the smoke detector or fire alarm system, all smoke detectors and fire alarms shall be equipped so that each person with a hearing impairment will be alerted in the event of a fire.

**Discussion:** This does not apply to all children and staff persons who have a hearing impairment, only those who cannot hear the detector or alarm. Many individuals who have hearing impairments can hear alarms.

Each child must be alerted to the fire alarm at all times while awake or sleeping – children who are unable to hear the smoke detector or fire alarm must have the same notice as a hearing person. Each staff person who cannot hear the detector or alarm must be notified immediately so that they can assist children to evacuate and to evacuate themselves.

Acceptable signaling devices include:

- Strobe lights approved by Underwriters Laboratories, have a single intensity of 75cd or higher, and have a flash rate of 1-3 flashes per second.
- A personal body device that vibrates when the alarm sounds.
- Hearing dogs.

It is not acceptable for a staff person to alert a child in lieu of a signaling device.

Remember that children's needs can differ based on the degree of their impairment and the specific situation. For example, a child may be able to hear a fire alarm during the day when using a hearing aid, but not while asleep when the aid is removed. Therefore, a combination of the devices may be appropriate based on each child's needs.

**Inspection Procedures:** Inspectors will determine if a child has a hearing impairment that does not allow the child to hear the fire alarm or smoke detector via interviews and review of child records. Inspectors will determine if a staff person has such a hearing impairment by interviewing the director. If one or more children or staff persons have a hearing impairment, inspectors will verify that they are able to be alerted when an alarm sounds.

**Primary Benefit:** A device that alerts children and staff who are hearing impaired of a fire offers them the same protection from fires as children and staff who are not hearing impaired. Use of a device instead of a person eliminates the possibility that a child will not be alerted if the staff are incapacitated.

**Exceptions:** Regulation § 3800.130 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

**130g**

3800.130(g) - If a smoke detector or fire alarm becomes inoperative, repair shall be completed within 48 hours of the time the detector or alarm was found to be inoperative.

**Discussion:** Facilities should have a procedure in place to verify detector/alarm functionality daily. This procedure can be very simple, such as designating a person to look at the master alarm panel and verify that the system is operational or instructing direct care staff to listen for the “chirping” sound indicating a dying battery.

**Inspection Procedures:** Inspectors will interview the director regarding whether the fire and smoke alarms are functioning properly. Inspectors will observe the master alarm panel and/or individual smoke detectors during the inspection. If the alarm panel indicates that the system is not functioning, or if there is a reason to believe a smoke detector is not working, inspectors will notify the director immediately. Inspectors will request that the facility implement its emergency procedures (see § 3800.130(h)) and that the facility make plans to repair the system immediately. In some cases, referral to local code enforcement may be required. Inspectors may contact the regional office for guidance if necessary.

**Primary Benefit:** A malfunctioning smoke detector will not protect children from injury or death in the event of a fire. In some cases, a malfunctioning alarm system is also a violation of local building codes.

**Exceptions:** Regulation § 3800.130 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

**130h**

3800.130(h) - There shall be a written procedure for fire safety monitoring if the smoke detector or fire alarm becomes inoperative.

**Discussion:** It is recommended that a fire-safety expert assist the facility in developing these procedures, or that the facility adopt Fire Watch procedures as defined by the National Fire Protection Agency.

**Inspection Procedures:** Inspectors will review the facility’s procedures for inoperative smoke detectors and fire alarms.

**Primary Benefit:** A malfunctioning smoke detector or fire alarm will not protect children from injury or death in the event of a fire. Fire Watch is a temporary alternative to a smoke detector.

**Exceptions:** Regulation § 3800.130 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

## Fire Extinguishers

<b>131a</b>	3800.131(a) - There shall be at least one operable fire extinguisher with a minimum 2-A rating for each floor, including the basement and attic.
<b>131b</b>	3800.131(b) - If the indoor floor area on a floor including the basement or attic is more than 3,000 square feet, there shall be an additional fire extinguisher with a minimum 2-A rating for each additional 3,000 square feet of indoor floor space.

**Discussion:** "Each floor" includes any floor of the facility accessible to children and staff, including the basement and attic if accessible. This does not include a crawl space, but does include an area accessible by pull-down steps accessible to the children. If neither children nor staff persons have access to a floor (except of course to test the detector), a fire extinguisher is not required on that floor. If anyone uses the floor, even for storage, an extinguisher is required.

**Inspection Procedures:** Inspectors will check each floor of the facility during the physical site inspection to verify the presence of fire extinguishers.

**Primary Benefit:** Easily-accessible fire extinguishers offer staff and children the chance to extinguish a fire before it spreads.

**Exceptions:** Regulation § 3800.131 does not apply to outdoor programs that operate from nonstationary settings (as per § 3800.302).

<b>131c</b>	3800.131(c) - A fire extinguisher with a minimum 2A-10BC rating shall be located in each kitchen. The kitchen extinguisher meets the requirements for one floor as required in [3800.131(a)].
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**Discussion:** Commercial kitchens are exempt from this requirement.

**Inspection Procedures:** Inspectors will check each kitchen area in the facility during the physical site inspection to verify the presence of a 2A-10BC fire extinguisher or its equivalent.

**Primary Benefit:** Fire extinguishers with a 2A-10BC rating are able to extinguish fires involving ordinary combustibles (such as paper or wood), flammable liquids, and electricity. Kitchens fires are likely to include one or more combustible types. The numbers refer to the "amount" of fire the extinguisher will extinguish.

**Exceptions:** Regulation § 3800.131 does not apply to outdoor programs that operate from nonstationary settings (as per § 3800.302).

<b>131d</b>	3800.131(d) - Fire extinguishers shall be listed by Underwriters Laboratories or approved by Factory Mutual Systems.
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**Discussion:** Most commercial fire extinguishers are listed by Underwriters Laboratories or approved by Factory Mutual Systems.

**Inspection Procedures:** Inspectors will request documentation that the facility's equipment meets one or more of these requirements. In many cases, the extinguisher itself will bear a seal of approval.

**Primary Benefit:** Approval of fire extinguishers ensures that the devices will function properly in the event of a fire.

**Exceptions:** Regulation § 3800.131 does not apply to outdoor programs that operate from nonstationary settings (as per § 3800.302).

<b>131e</b>	3800.131(e) - Fire extinguishers shall be accessible to staff persons. Fire extinguishers may be kept locked if access to the extinguisher by a child may cause a safety risk to the child. If fire extinguishers are kept locked, each staff person shall be able to immediately unlock the fire extinguisher in the event of a fire emergency.
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**Discussion:** It is recommended that fire extinguishers remain unlocked. In some cases, locking the extinguisher is necessary to prevent children from misusing them.

Fire safety training is required by § 3800.58(b)(3).

**Inspection Procedures:** Inspectors will verify that fire extinguishers are not locked during the physical site inspection. If an extinguisher is locked, inspectors will interview staff to ask how it would be immediately unlocked in the event of a fire.

**Primary Benefit:** Easily accessible fire extinguishers offer staff and children the chance to extinguish a fire before it spreads.

**Exceptions:** Regulation § 3800.131 does not apply to outdoor programs that operate from nonstationary settings (as per § 3800.302).

**131f**

3800.131(f) - Fire extinguishers shall be inspected and approved annually by a fire safety expert. The date of the inspection shall be on the extinguisher.

**Discussion:** Inspections/approvals may be done by the extinguisher manufacturer or a company that employs a fire safety expert. Most fire extinguishers bear a tag showing that an inspection has been completed.

Documentation showing inspection and approval of each extinguisher in the facility by a fire safety expert may be kept electronically or in a paper file in the facility's office.

**Inspection Procedures:** Inspectors will review the inspection tags or other documentation verifying that each extinguisher has been inspected within the past year.

**Primary Benefit:** Easily-accessible fire extinguishers offer staff the chance to extinguish a fire before it spreads. Approval of fire extinguishers ensures that the devices will function properly in the event of a fire. Inspection of fire extinguishers ensures that they will function in the event of a real fire.

**Exceptions:** Regulation § 3800.131 does not apply to outdoor programs that operate from nonstationary settings (as per § 3800.302).

## Fire Drills

<b>132a</b>	3800.132(a) - An unannounced fire drill shall be held at least once a month.
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**Discussion:** Only fire drills held in the residential portion of the licensed setting will be reviewed in order to measure compliance with § 3800.132(a). If the school, cafeteria, dining hall, gym, etc. is located in the same building as the bedrooms, it is considered part of the residential setting and would count as a monthly fire drill.

The Department recommends that in addition to monthly fire drills in the residential settings, that homes also hold monthly fire drills in other buildings on campus to which children have access.

Please see "Scheduling the Drill" in "Fire Drills and Evacuations" in "Regulatory Issues and Frequently-Occurring Situations."

**Inspection Procedures:** Inspectors will review fire drill records for the past six months. Inspectors will interview staff and children about fire drills, and whether advance notice of a drill is provided.

**Primary Benefit:** Unannounced drills ensure that staff and children will be prepared to evacuate without hesitation in the event of a real fire.

**Exceptions:** Regulation § 3800.132 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

<b>132b</b>	3800.132(b) - Fire drills shall be held during normal staffing conditions and not when additional staff persons are present.
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**Discussion:** When planning drills, facilities should consider what human resources would be available in the event of a real fire at any given time, and the requirements of the facility's evacuation plan. For example, if staff from a nursing facility collocated in the same building or in adjoining buildings assist in drills, then the same staff must be available to assist in evacuating children during an actual fire emergency, even if those staff must also assist children from the skilled nursing facility. Additionally, adding staff during fire drills to accomplish a successful evacuation not only makes the drill a worthless exercise, it puts children at risk if a real fire occurs. In other words, facilities may not practice evacuating children using resources that won't be available in a real fire.

For more information, please see "Fire Drills and Evacuations" in "Regulatory Issues and Frequently-Occurring Situations."

**Inspection Procedures:** The facility's fire drill record will be reviewed by inspectors to verify that drill dates and times are appropriately staggered. Staff records will be compared to the fire drill log to determine whether additional staff are on duty during fire drills. If ancillary staff, volunteers, staff from other facilities, or nursing facility staff participate in drills, inspectors will verify that these resources will be available at all times and during actual emergencies.

**Primary Benefit:** Conducting fire drills during normal staff conditions helps to ensure that staff on all shifts are properly trained in evacuation procedures.

**Exceptions:** Regulation § 3800.132 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

<b>132c</b>	3800.132(c) - A written fire drill record shall be kept of the date, time, the amount of time it took for evacuation, the exit route used, the number of children in the facility at the time of the drill, problems encountered and whether the fire alarm or smoke detector was operative.
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**Discussion:** Facilities may capture additional data about fire drills if desired. Please see "Fire Drills and Evacuations" in "Regulatory Issues and Frequently-Occurring Situations."

**Inspection Procedures:** Inspectors will review the facility's fire drill documentation to verify that all of the required information is captured. Staff, children, and third-party sources may be interviewed if the fire drill record is inadequate to measure compliance or if the information recorded on the record is suspected to be inaccurate.

**Primary Benefit:** Recording fire drill information helps facilities ensure compliance with all of the regulations relating to fire drills, and to identify and correct problems with evacuation.

**Exceptions:** Regulation § 3800.132 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

**132d**

3800.132(d) - Children shall be able to evacuate the entire building into a public thoroughfare, or to a fire-safe area designated in writing within the past year by a fire safety expert, within 2 1/2 minutes or within the period of time specified in writing within the past year by a fire safety expert. The fire safety expert may not be an employee of the facility.

**Discussion:** Many facilities report confusion regarding this regulation primarily because it contains two requirements – the need for a designated time, and the need for a designated area (if one exists). Another way of describing this requirement is as follows: If, during fire drills and actual emergencies...

- ...all children evacuate outside of the building, then a fire-safety expert must determine the maximum amount of time children have to get outside when the fire alarm sounds.
- ...all children evacuate to internal areas, then a fire-safety expert must determine the maximum amount of time children have to get to the internal areas when the fire alarm sounds, **AND** designate the internal areas as “fire-safe areas”.
- ...some children evacuate to internal areas and others evacuate outside of the building, then a fire-safety expert must determine **ONE** maximum amount of time for children to get outside and to the internal areas, **AND** designate the internal areas as “fire-safe areas.”

A facility must have newly updated written documentation each year from a fire safety expert, even if no physical modifications have been made to the building, and must be able to demonstrate that the person completing the documentation is a fire-safety expert.

See “Fire Drills and Evacuations” in “Regulatory Issues and Frequently-Occurring Situations” for more information.

**The “2 ½ Minute” Evacuation Time** - Since 2005, the Department has taken the position that facilities are not required to have designated maximum evacuation times if all children are able to evacuate the entire building within 2 ½ minutes from the time the alarm sounds to the time when the last child enters the fire safe area(s) or exits the outside door. Many facilities have interpreted this to mean that the Department expects all facilities to evacuate all children in 2 ½ minutes, but that is not the case; the 2 ½ minute time window allows facilities that are unable to secure a maximum evacuation time from a fire-safety expert an alternative means of compliance, and is therefore meant to help facilities. The 2 ½ minute time was selected because it appears in almost all other human-care regulations administered by the Department. Remember that fire-safe areas must always be designated in writing by a fire-safety expert, even if the expert will not designate a maximum evacuation time.

**Inspection Procedures:** The facility’s fire drill record will be reviewed by inspectors to ensure that children are regularly evacuated within 2 ½ minutes or within the time specified by a fire-safety expert. If a maximum evacuation time and/or internal fire-safe areas have been designated, inspectors will verify that the person who made the designation is a fire-safety expert. If the facility has multiple fire-safe areas and/or children with mobility needs, inspectors will verify that there are sufficient staff on duty at all times to evacuate children in accordance with the facility’s evacuation plan. In some cases, observation of a fire drill may be required to verify that evacuation can be successfully completed.

**Primary Benefit:** Evacuation within the maximum evacuation time prevents fire-related death and injury.

**Exceptions:** Regulation § 3800.132 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

**132e**

3800.132(e) - A fire drill shall be held during sleeping hours at least every 6 months.

**Discussion:** In order to cause minimal disruption to the children, the sleeping-hour fire drill may be held within 30 minutes after children are asleep or within 30 minutes before they normally wake. However, it is strongly recommended that the sleeping-hour drill be held between 2:00 AM and 4:00 AM.

“Sleeping hours” means “11:00 PM to 7:00 AM” unless the facility can demonstrate that another time period more accurately reflects normal sleeping hours. For example, if most (more than half) of the children go to sleep at 10:00 PM and wake at 6:00 AM, 10:00 PM to 6:00 AM may be used as sleeping hours when measuring compliance with this regulation.

**Inspection Procedures:** The facility's fire drill record will be reviewed by inspectors to verify that a fire drill has been conducted during sleeping hours within the past six months. If the facility uses facility-specific sleeping hours, inspectors will verify that the sleeping hours used are accurate based on staffing records, staff interviews, and child interviews.

**Primary Benefit:** It is critical to practice response and evacuation while children are asleep, since an individual's response time and actions when waking from sleep are reduced, and because most fire deaths occur during sleeping hours.

**Exceptions:** Regulation § 3800.132 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.132(e) does not apply to day treatment facilities (as per § 3800.311).

**132f**

3800.132(f) - Alternate exit routes shall be used during fire drills.

**Discussion:** In order to practice using alternate routes, the facility should vary the location of the hypothetical fire during each drill. This may be done by simulating a blocked door or egress path (placing a large display/poster of a hypothetical fire in an exit path) and practicing to evacuate through an alternate path of egress.

If the facility has internal fire-safe areas, it is recommended that the hypothetical fire should be located in each fire-safe area at least once every two calendar years.

For more information, please see "Fire Drills and Evacuations" in "Regulatory Issues and Frequently-Occurring Situations."

**Inspection Procedures:** The facility's fire drill record will be reviewed by inspectors to verify that alternate routes are used during fire drills. Inspectors will interview the director and staff to verify that the location of the "fire" varies from one drill to the next.

**Primary Benefit:** Varying the location of the fire and the exit routes used ensures that staff and children are prepared to respond to different fire scenarios.

**Exceptions:** Regulation § 3800.132 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

**132g**

3800.132(g) - Fire drills shall be held on different days of the week, at different times of the day and night and on different staffing shifts.

**Discussion:** For more information, please see "Fire Drills and Evacuations" in "Regulatory Issues and Frequently-Occurring Situations."

**Inspection Procedures:** The facility's fire drill record will be reviewed by inspectors to verify that drill dates and times are appropriately staggered to reflect different days of the week, different times of the day and night and on different staffing shifts.

**Primary Benefit:** Staggering drill dates and times ensures that staff and children are prepared to respond to different fire scenarios, and that staff on all shifts are properly trained in evacuation procedures.

**Exceptions:** Regulation § 3800.132 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

**132h**

3800.132(h) - Children shall evacuate to a designated meeting place outside the building or within the fire-safe area during each fire drill.

**Discussion:** This regulation intends that the facility designate one meeting place so that staff persons and emergency personnel can quickly check to determine if all children have been evacuated. However, if it is absolutely necessary due to exit paths and mobility of the children to have multiple external meetings places, both meeting places must be able to be checked by staff within 30 seconds (in person or through electronic communication such as cell phones or walkie-talkies) to ensure that children's supervision needs are met. There may be more than one internal designated meeting if the facility is equipped with more than one fire-safe area, in that each area will have a designated meeting place within the fire-safe area. Remember that a sufficient



number of staff must be present on each shift at all times to allow facilities to account for the number of residents in each area. This is also important during drills to verify that evacuations are completed within the time specified by a fire-safety expert. Equipping staff with communication devices is recommended in the fire safe areas to be able to immediately talk with staff in all of the other fire safe areas to ensure that all children in the home are accounted for. Each staff person must be trained to know to which fire safe area (s)he is to be present in if a fire or fire drill occurs.

**Inspection Procedures:** For evacuations to the outside of the building, inspectors will verify that there is at least one designated meeting place. If there are two outside meeting places, inspectors will verify that there is a communication and accounting system in place, and that a procedure is in place to account for children by name. For internal evacuations, inspectors will verify that a sufficient number of staff are present on each shift to successfully evacuate children and account for children in each fire safe area.

**Primary Benefit:** Designated meeting places and communication systems ensure that children are accounted for during actual fires to ensure total evacuation and prevent death or injury from wandering.

**Exceptions:** Regulation § 3800.132 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

**132i**

3800.132(i) - A fire alarm or smoke detector shall be set off during each fire drill.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review the facility's fire drill records to verify that an alarm was sounded during each drill. If necessary, inspectors will interview children and staff to confirm that alarms sound when drills are held.

**Primary Benefit:** Sounding the alarm simulates what would happen in an actual fire. It helps to alert children to begin the evacuation process.

**Exceptions:** Regulation § 3800.132 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

**132j**

3800.132(j) - Elevators may not be used during a fire drill or a fire.

**Discussion:** Self-explanatory.

**Inspection Procedures:** If the facility is equipped with elevators, inspectors will verify that they are not used during drills by interviewing staff and children.

**Primary Benefit:** Elevators may be inoperative during fires, causing people to become trapped in the building.

**Exceptions:** Regulation § 3800.132 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302).

# CHILD HEALTH

## Child Health and Safety Assessment

<b>141a</b>	3800.141(a) - A child shall have a written health and safety assessment within 24 hours of admission.
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**Discussion:** If the health and safety assessment is not completed on the same day of admission, the facility should document the child's admission date *and time* as well as the date *and time* the health and safety assessment was completed.

If a child is placed into a facility and then moved to another facility on the same campus, the facility shall complete all paperwork requirements as defined by the regulations except for: child rights as it pertains to § 3800.31(a) and (c), as well as consent to treatment as defined at § 3800.19(b)(1).

The health and safety assessment should be a "living document" and must be kept accurate throughout the child's stay at the facility. If a child develops a new behavior or medical condition, or has a history of a behavior or medical condition that becomes known to the facility, the health and safety assessment must be revised to include this accurate information.

**Inspection Procedures:** Inspectors will review child records to verify that the assessment is present, and was completed within the required timeframe.

**Primary Benefit:** Identifies high-risk behavior(s) and important medical information upon admission. Serves as the basis for a plan to meet any identified needs.

<b>141b</b>	3800.141(b) - The assessment shall be completed or coordinated, signed and dated by medical personnel or staff persons trained by medical personnel.
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**Discussion:** "Medical personnel" means persons who hold professional license in a medical field with the Pennsylvania Department of State. If the staff person conducting the assessment is not medical personnel, the facility must have documentation of the training by medical personnel that was provided to that staff person.

**Inspection Procedures:** Inspectors will review child records to verify that the assessment is present, and was completed by medical personnel or staff trained by medical personnel.

**Primary Benefit:** Ensures that the initial information collected on a child is done so by a qualified professional or staff person trained by a qualified professional.

<b>141c</b>	<p>3800.141(c) - The assessment shall include the following:</p> <ol style="list-style-type: none"> <li>(1) Medical information and health concerns such as allergies; medications; immunization history; hospitalizations; medical diagnoses; medical problems that run in the family; issues experienced by the child's mother during pregnancy; special dietary needs; illnesses; injuries; dental, mental or emotional problems; body positioning and movement stimulation for children with disabilities, if applicable; and ongoing medical care needs.</li> <li>(2) Known or suspected suicide or self-injury attempts or gestures and emotional history which may indicate a predisposition for self-injury or suicide.</li> <li>(3) Known incidents of aggressive or violent behavior.</li> <li>(4) Substance abuse history.</li> <li>(5) Sexual history or behavior patterns that may place the child or other children at a health or safety risk.</li> </ol>
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**Discussion:** Obtaining accurate medical information and completing a comprehensive health and safety assessment is critical to ensure a child's safety once he/she has been admitted to the facility. Facilities are encouraged to use all resources available to collect information on a child's past medical or behavioral needs. In most cases, this information will be collected prior to admission in order to assure that the service needs of the child can be met at the facility in accordance with § 3800.223. Even if the information is collected prior to admission, a facility is required to ensure that this information is still accurate by completing a health and safety assessment within 24 hours of admission.

The facility must be able to demonstrate that each of these areas were assessed.

**Inspection Procedures:** Inspectors will review child records to verify that the assessment is present, and contains all of the information required.

**Primary Benefit:** Accurate medical information helps facilities decide whether a child's needs can be met at the facility, helps the facility develop accurate assessments plans, and ensures that a child's medical needs will be met.

<b>141d</b>	3800.141(d) - A copy of the assessment shall be kept in the child's record.
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**Discussion:** The health and safety assessment should be a "living document" and must be kept accurate throughout the child's stay at the facility. If a child develops a new behavior or medical condition, or has a history of a behavior or medical condition that becomes known to the facility, the health and safety assessment must be revised to include this accurate information.

**Inspection Procedures:** Inspectors will review child records to verify that the assessment is present.

**Primary Benefit:** Having a complete record, including the assessment, for each child gives the facility the best possible picture of who the child is, what the child's history is, and what services or needs the child may have.

### Health and Safety Plan

<b>142</b>	3800.142 - If the health and safety assessment in § 3800.141 (relating to health and safety assessment) identifies a health or safety risk, a written plan to protect the child shall be developed and implemented within 24 hours after the assessment is completed.
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**Discussion:** A health and safety plan must be completed, if applicable, within 24 hours after the initial health and safety assessment or within 24 hours of any subsequent or updated health and safety assessments as described in § 3800.141(a). It is recommended for the protection of the child and other children that the health and safety plan be developed immediately after the identification of any health or safety risk.

If a health and safety plan is in place and the child continues to have a specific behavioral issue, the health and safety plan must be updated to include further actions that will be taken by the facility to keep the child free from harm.

**Inspection Procedures:** Inspectors will verify that a health and safety plan was completed properly and within the timeframe required, if applicable.

**Primary Benefit:** Health and safety plans ensure that each child's immediate needs are met, and that accountability for meeting those needs is conclusively established.

### Child Health Examination

**143a**

3800.143(a) - A child shall have a health examination within 15 days after admission and annually thereafter, or more frequently as specified at specific ages in the periodicity schedule recommended by the American Academy of Pediatrics, "Guidelines for Health Supervision," available from 141 Northwest Point Boulevard, Post Office Box 927, Elk Grove Village, Illinois, 60009-0927.

**Discussion:** The requirements for the initial and ongoing medical examinations should be completed within timeframes specified by regulation OR as soon as can be accomplished taking into consideration insurance issues and availability of the examiner. A facility must retain documentation of all attempts to have the medical examination completed within timeframes. This exception does not apply to the requirements of § 3800.143(c).

If the child had a health examination prior to admission that meets the requirements of § 3800.143(e) within the periodicity schedule specified in § 3800.143(a), and there is written documentation of the examination, an initial examination within 15 days after admission is not required. The next examination shall be required within the periodicity schedule specified in § 3800.143(a).

**Inspection Procedures:** Inspectors will review child records to verify that the examination records are present, and were completed within the required timeframes.

**Primary Benefit:** Accurate, updated medical information helps facilities decide whether a child's needs can be met at the facility, helps the facility develop accurate assessments plans, and ensures that a child's medical needs will be met.

**143c**

3800.143(c) - If the child will participate in a program that requires significant physical exertion, a health examination shall be completed before the child participates in the physical exertion portion of the program.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review child records to verify that the examination records are present, and were completed before the child participated in the physical exertion portion of the program.

**Primary Benefit:** Ensures that the child is physically able to endure a program that requires significant physical exertion, prior to engaging in that program.

**143d**

3800.143(d) - The health examination shall be completed, signed and dated by a licensed physician, certified registered nurse practitioner or licensed physician's assistant. Written verification of completion of each health examination, date and results of the examination, the name and address of the examining practitioner and follow-up recommendations made, including each component, shall be kept in the child's record.

**Discussion:** Facilities are permitted to fill out only the special health or dietary needs of the child, allergies or contraindicated medications, and physical or mental disabilities of the child, if any, on the child health examination form.

Facilities are PERMITTED to do the following:

- Complete a specific portion of the child health examination form such as the special health or dietary needs of the child, allergies or contraindicated medications, and physical or mental disabilities of the child, if any, prior to the in-person evaluation, and present the child health examination form to the physician, physician's assistant or certified registered nurse practitioner for signature at the time of the examination.
- Complete a specific portion of the child health examination form such as the special health or dietary needs of the child, allergies or contraindicated medications, and physical or mental disabilities of the child, if any, after an in-person evaluation that was performed within the timeframes specified by this regulation, and present the completed form to the physician, physician's assistant or certified registered nurse practitioner for signature in person, by facsimile, or via electronic mail.
- Correct a child health examination form upon discovering that the physician, physician's assistant or certified registered nurse practitioner has recorded inaccurate information or omitted information, **ONLY IF** a registered nurse (RN) or licensed practical nurse (LPN) contacts the person who performed the evaluation, **AND** receives permission from that person to correct the child health examination form, **AND** documents the date, time, and person spoken to on the child health examination form next to the correction.

Facilities are PROHIBITED from doing the following:

- Completing any other section of the child health examination form aside from the special health or dietary needs of the child, allergies or contraindicated medications, and physical or mental disabilities of the child, (if any), unless the home employs a physician, physician's assistant or certified registered nurse practitioner.
- Completing all or a portion of the child health examination form without an in-person evaluation.
- Completing all or a portion of the child health examination form after an in-person evaluation that was performed outside of the timeframes specified by this regulation.
- Changing the content of a child health examination form without the consent of the person who performed the evaluation, or changing the content of a child health examination form by someone who is not a registered nurse (RN) or licensed practical nurse (LPN).

It is strongly recommended that facilities carefully review child health examination forms completed by a physician, physician's assistant, or certified registered nurse practitioner to verify that all of the required information was recorded. Although the evaluations must be completed by medical professionals, facilities are responsible for ensuring that the evaluations were complete and that the child health examination forms were filled out in their entirety.

**Inspection Procedures:** Inspectors will review child records to verify that the examination records are present, and were completed by a licensed physician, certified registered nurse practitioner or licensed physician's assistant.

**Primary Benefit:** Accurate, updated medical information helps facilities decide whether a child's needs can be met at the facility, helps the facility develop accurate assessments plans, and ensures that a child's medical needs will be met.

143e

3800.143(e) - The health examination shall include:

- (1) A comprehensive health and developmental history, including both physical and behavioral health development.
- (2) A comprehensive, unclothed physical examination.
- (3) Immunizations, screening tests and laboratory tests as recommended by the American Academy of Pediatrics, "Guidelines for Health Supervision."
- (4) Blood lead level assessments for children 5 years of age or younger, unless the examining practitioner determines that the testing is unnecessary, after reviewing the results of previously conducted blood lead testing, which review and conclusion is documented in the child's medical record.
- (5) Sickle cell screening for children who are African-American unless the examining practitioner determines that the testing is unnecessary, after reviewing the results of previously conducted sickle cell testing, which review and conclusion is documented in the child's medical record.
- (6) A gynecological examination including a breast examination and a Pap test if recommended by medical personnel.
- (7) Communicable disease detection if recommended by medical personnel based on the child's health status and with required written consent in accordance with applicable laws.
- (8) Specific precautions to be taken if the child has a communicable disease, to prevent spread of the disease to other children.
- (9) An assessment of the child's health maintenance needs, medication regimen and the need for blood work at recommended intervals.
- (10) Special health or dietary needs of the child.
- (11) Allergies or contraindicated medications.
- (12) Medical information pertinent to diagnosis and treatment in case of an emergency.
- (13) Physical or mental disabilities of the child, if any.
- (14) Health education, including anticipatory guidance.
- (15) Recommendations for follow-up physical and behavioral health services, examinations and treatment.

**Discussion:** "Health education" can be related to multiple subjects including education on medical diagnoses, maintaining a healthy mental status, sex education, etc. If the physician determines that no health education is needed for that child, he/she may indicate it is not applicable.

It is important to remember that the primary focus of the requirements of § 3800.143(a)-(f) is the need for a child to have a comprehensive health examination by a medical professional upon admission and on a regular basis thereafter – NOT that a form be properly completed.

A copy of the periodicity schedule recommended by the American Academy of Pediatrics (AAP), "Guidelines for Health Supervision," can be obtained directly from the American Academy of Pediatrics, by contacting the Operator Support Hotline or by visiting:

<http://brightfutures.aap.org/pdfs/AAP%20Bright%20Futures%20Periodicity%20Sched%20101107.pdf>.

Compliance with this regulations § 3800.143(a)-(f) is achieved by the following:

- A child is examined *in person* by a physician, physician's assistant, or certified registered nurse practitioner within 15 days after admission OR as soon as can be accomplished taking into consideration insurance issues and availability of the physician. A facility must retain documentation of all attempts to have the medical examination completed within timeframes. Facilities will still need to follow all physician's orders to have follow-up work completed timely. If the child had a health examination prior to admission that falls within the frequency schedule of the AAP and includes all the elements listed in § 3800.143(e), there is no need for the child to have another examination within 15 days of admission. The facility however, will need to obtain written documentation of the prior examination within 15 days of admission and develop a method to track when the next examination is due. Another examination will need to be completed annually at a minimum, or more often if recommended by the AAP.
- Documentation of any health examination needs to be signed and dated by the medical professional completing the examination. If the date the medical professional completes the examination is different than the date the examination is documented and signed, the medical professional will need to specify what date the physical examination was actually completed.
- Documentation of the examination must include the results of the examination, the name and address of the medical professional, and follow-up recommendations made.
- Documentation must include that each element specified in § 3800.143(e) was completed, unless it is not applicable to a particular child.
- "Health Education" can be related to multiple subjects including education on medical diagnoses, maintaining a healthy mental status, sex education, etc. If the physician determines that no health education is needed for that child, he/she may indicate it is not applicable.
- Documentation of the health examination should be kept in the child's record.
- If the child will participate in a program that requires significant physical exertion, a health examination shall be completed before the child participates in the physical exertion portion of the program. This does not include routine sports and exercise.

Immunization records, screening tests and laboratory tests may be completed, signed and dated by a registered nurse or licensed practical nurse instead of a licensed physician, certified registered nurse practitioner or licensed physician's assistant.

It is strongly recommended that facilities carefully review the documentation from the medical professional to verify that all of the required information was recorded. Although the examinations must be completed by medical professionals, facilities are responsible for ensuring that the examinations were complete and documented appropriately.

**Inspection Procedures:** Inspectors will review child records to verify that the examination records are present, and that records contain all of the information required the regulation.

**Primary Benefit:** Accurate medical and behavioral health information helps facilities decide whether a child's needs can be met at the facility, ensures that a child has had a thorough health examination as recommended by the AAP, and helps the facility identify and arrange for services to meet each child's medical and behavioral health needs.

## Dental Care

**144a**

3800.144(a) - Each child shall receive dental care, at as early an age as necessary, needed for relief of pain and infections, restoration of teeth and maintenance of dental health.

**Discussion:** Oral health is critically important to the overall health and well-being of children and adolescents. Many people think of a dental examination as an examination of the teeth only. Regular dental examinations can also identify and treat periodontal disease (gums); proper development and alignment of facial bones, jaws, and teeth; oral diseases and conditions; and trauma or injury to the mouth and teeth.

**Inspection Procedures:** Inspectors will review child records to verify that dental needs have been identified, treated, and properly recorded.

**Primary Benefit:** Ensures that a child receives non-routine dental care, if needed, at any age.

**Exceptions:** Regulation § 3800.144 does not apply to day treatment facilities (as per § 3800.311).

**144b**

3800.144(b) - A child who is 3 years of age or older shall have a dental examination performed by a licensed dentist and teeth cleaning performed by a licensed dentist or dental technician at least semiannually. If a child has not had a dental examination and teeth cleaning within 6 months prior to admission, a dental examination and teeth cleaning shall be performed within 30 days after admission.

**Discussion:** An initial dental examination should be completed within 30 days OR as soon as can be accomplished taking into consideration insurance issues and availability of the dentist. A facility must retain documentation of all attempts to have the medical or dental exam completed within timeframes. Facilities will still need to follow all dentist's orders to have follow-up work completed timely.

"Semiannually" means twice per year. However, it is strongly recommended that a child receives a dental exam every six months.

**Inspection Procedures:** Inspectors will review child records to verify that dental needs have been identified, treated, and properly recorded.

**Primary Benefit:** Ensures that children receive routine dental care by qualified persons that prevents, identifies, and treats oral conditions.

**Exceptions:** Regulation § 3800.144 does not apply to day treatment facilities (as per § 3800.311).

**144c**

3800.144(c) - A written record of completion of each dental examination, including the preadmission examination permitted in subsection (b), specifying the date of the examination, the dentist's name and address, procedures completed and follow-up treatment recommended and dates provided, shall be kept in the child's record.

**Discussion:** The written record must include all of this information regardless of whether the dental examination was completed prior to admission or after. Documentation completed by the dentist should be reviewed after the examination to ensure the required elements are present. If a facility accepts documentation of a dental examination that occurred prior to admission from another facility, the placement agency, or another source, the facility is responsible for ensuring that documentation includes all of the required elements.

**Inspection Procedures:** Inspectors will review child records to verify that all information required by the regulation is present.

**Primary Benefit:** Ensures that children receive routine dental care by qualified persons that prevents, identifies, and treats oral conditions. Ensures that a child receives dental work needed to address issues identified during routine examinations.

**Exceptions:** Regulation § 3800.144 does not apply to day treatment facilities (as per § 3800.311).

<b>144d</b>	3800.144(d) - Follow-up dental work indicated by the examination, such as treatment of cavities and the application of protective sealants, shall be provided in accordance with recommendations by the licensed dentist.
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**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review child records to verify that dental needs have been identified, treated, and properly recorded.

**Primary Benefit:** Ensures that a child receives dental work needed to address issues identified during routine examinations.

**Exceptions:** Regulation § 3800.144 does not apply to day treatment facilities (as per § 3800.311).

### Vision Care

<b>145a</b>	3800.145(a) - Each child shall receive vision screening and services to include diagnosis and treatment including eyeglasses, for defects in vision.
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**Discussion:** A child must have a vision screening completed within 30 days after admission unless a vision screening was completed prior to admission within the recommended time frames in the periodicity schedule.

Screening tests may be completed by a registered nurse, licensed practical nurse, licensed physician, certified registered nurse practitioner, or licensed physician's assistant.

**Inspection Procedures:** Inspectors will review child records to verify that vision needs have been identified and treated.

**Primary Benefit:** Ensures that a child receives non-routine vision care, if needed, at any age.

**Exceptions:** Regulation § 3800.145 does not apply to day treatment facilities (as per § 3800.311).

<b>145b</b>	3800.145(b) - Each child who is 3 years of age or older shall receive vision screening within 30 days after admission in accordance with the periodicity schedule recommended by the American Academy of Pediatrics, "Guidelines for Health Supervision," and "Eye Examination and Vision Screening in Infants, Children and Young Adults (RE9625)."
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**Discussion:** A copy of the periodicity schedule recommended by the American Academy of Pediatrics (AAP) can be obtained directly from the American Academy of Pediatrics or by contacting the Operator Support Hotline.

A child must have a vision screening completed within 30 days after admission unless a vision screening was completed prior to admission within the recommended time frames in the periodicity schedule.

Screening tests may be completed by a registered nurse, licensed practical nurse, licensed physician, certified registered nurse practitioner, or licensed physician's assistant.

If the child had a vision screening prior to admission that meets the requirements of § 3800.145(a) within the periodicity schedule specified in § 3800.145(b), an initial examination within 30 days after admission is not required. The next screening shall be required within the periodicity schedule specified in § 3800.145(b).

**Inspection Procedures:** Inspectors will review child records to verify that vision needs have been identified and treated.

**Primary Benefit:** Regular vision screening is critical for early detection of abnormal conditions. Visual impairments in children could impact a child socially, emotionally, educationally, or interfere with the development of normal vision.

**Exceptions:** Regulation § 3800.145 does not apply to day treatment facilities (as per § 3800.311).



<b>145d</b>	3800.145(d) - Follow-up treatment and services, such as provision of eyeglasses, shall be provided as recommended by the treating practitioner.
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**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review child records to verify that vision needs have been identified and treated.

**Primary Benefit:** Ensures that a child receives vision care needed to address issues identified during routine examinations.

**Exceptions:** Regulation § 3800.145 does not apply to day treatment facilities (as per § 3800.311).

<b>145e</b>	3800.145(e) - A written record of completion of each vision screening, including the preadmission screening permitted in subsection (c), specifying the date of the screening, the treating practitioner's name and address, results of the screening, follow-up recommendations made, and the dates and provision of follow-up services and treatment, shall be kept in the child's record.
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**Discussion:** The written record must include all of this information regardless of whether the vision screening was completed prior to admission or after. Documentation completed by the medical professional conducting the screening should be reviewed after the examination to ensure the required elements are present. If a facility accepts documentation of a vision screening that occurred prior to admission from another facility, the placement agency, or another source, the facility is responsible for ensuring that documentation includes all of the required elements.

**Inspection Procedures:** Inspectors will review child records to verify that vision needs have been identified, treated, and properly recorded.

**Primary Benefit:** Ensures that a child receives vision care needed to address issues identified during routine examinations.

**Exceptions:** Regulation § 3800.145 does not apply to day treatment facilities (as per § 3800.311).

### Hearing Care

<b>146a</b>	3800.146(a) - Each child shall receive a hearing screening and services to include diagnosis and treatment including hearing aids, for defects in hearing.
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**Discussion:** A child must have a hearing screening completed within 30 days after admission unless a hearing screening was completed prior to admission within the recommended time frames in the periodicity schedule.

Screening tests may be completed by a registered nurse, licensed practical nurse, licensed physician, certified registered nurse practitioner, or licensed physician's assistant.

**Inspection Procedures:** Inspectors will review child records to verify that hearing needs have been identified and treated.

**Primary Benefit:** Ensures that a child receives non-routine hearing care, if needed, at any age.

**Exceptions:** Regulation § 3800.146 does not apply to day treatment facilities (as per § 3800.311).

<b>146b</b>	3800.146(b) - Each child who is 3 years of age or older shall receive a hearing screening within 30 days after admission in accordance with the periodicity schedule recommended by the American Academy of Pediatrics, "Guidelines for Health Supervision."
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**Discussion:** A copy of the periodicity schedule recommended by the American Academy of Pediatrics (AAP) can be obtained directly from the American Academy of Pediatrics or by contacting the Operator Support Hotline.

A child must have a hearing screening completed within 30 days after admission unless a hearing screening was completed prior to admission within the recommended time frames in the periodicity schedule.

Screening tests may be completed by a registered nurse, licensed practical nurse, licensed physician, certified registered nurse practitioner, or licensed physician's assistant.

If the child had a hearing screening prior to admission that meets the requirements of § 3800.146(a) within the periodicity schedule specified in § 3800.146(b), an initial examination within 30 days after admission is not required. The next screening shall be required within the periodicity schedule specified in § 3800.146(b).

**Inspection Procedures:** Inspectors will review child records to verify that hearing needs have been identified and treated.

**Primary Benefit:** Regular hearing screening is critical for early detection of abnormal conditions. Children with hearing loss should be identified as quickly as possible after birth so that appropriate services or assistive devices can be obtained. Children with hearing loss experience delayed development in language, learning, and speech.

**Exceptions:** Regulation § 3800.146 does not apply to day treatment facilities (as per § 3800.311).

<b>146d</b>	3800.146(d) - Follow-up treatment and services, such as provision of hearing aids, shall be provided as recommended by the treating practitioner.
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**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review child records to verify that hearing needs have been identified and treated.

**Primary Benefit:** Ensures that a child receives hearing care needed to address issues identified during routine examinations.

**Exceptions:** Regulation § 3800.146 does not apply to day treatment facilities (as per § 3800.311).

<b>146e</b>	3800.146(e) - A written record of completion of each hearing screening, including the preadmission screening permitted in subsection (c), specifying the date of the screening, the treating practitioner's name and address, the results of the screening, follow-up recommendations made, and the dates and provision of follow-up services and treatment, shall be kept in the child's record.
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**Discussion:** The written record must include all of this information regardless of whether the hearing screening was completed prior to admission or after. Documentation completed by the medical professional conducting the screening should be reviewed after the examination to ensure the required elements are present. If a facility accepts documentation of a hearing screening that occurred prior to admission from another facility, the placement agency, or another source, the facility is responsible for ensuring that documentation includes all of the required elements.

**Inspection Procedures:** Inspectors will review child records to verify that hearing needs have been identified, treated, and properly recorded.

**Primary Benefit:** Ensures that a child receives hearing care needed to address issues identified during routine examinations.

**Exceptions:** Regulation § 3800.146 does not apply to day treatment facilities (as per § 3800.311).

## Use of Tobacco

**147a**

3800.147(a) - Use or possession of tobacco products by children is prohibited.

**147b**

3800.147(b) - Use or possession of tobacco products by staff persons is prohibited in the facility and during transportation provided by the facility.

**Discussion:** The use or possession of tobacco products applies to all children, even if they are 18 years of age.

Tobacco may not be brought into the facility or facility vehicles by staff, even if they are kept in a locked area.

**Inspection Procedures:** Inspectors will interview the director and staff to determine the practices used by the facility to ensure that children are not in possession of cigarettes or other tobacco products. If chewing tobacco, cigarettes, cigarette butts, or the smell of smoke is detected during the inspection, the inspector will interview children and staff regarding these items to determine how they came to be present in the facility.

**Primary Benefit:** Protects children from the harmful effects of tobacco and reduces the risk of fire in the facility.

**147c**

3800.147(c) - If staff persons use tobacco products outside but on the premises of the facility, the following apply:  
 (1) The facility shall have written fire safety procedures. Procedures shall include extinguishing procedures and requirements that smoking shall occur only a safe distance from the facility and from flammable or combustible materials or structures.  
 (2) Written safety procedures shall be followed.  
 (3) Use of tobacco products shall be out of the sight of the children.

**Discussion:** This regulation does not apply if staff are not permitted to smoke anywhere on the facility's premises.

For the purposes of applying this regulation, "safe distance" means far enough away to prevent a fire in an area where a staff person is smoking from igniting combustible or flammable materials or the facility itself.

It is recommended that if the facility permits its staff to smoke on the premises, that the facility establish a designated smoking area that meets the above requirements as to decrease the possibility that an individual staff person might violate this regulation and put children's safety at risk.

In addition to the required elements, it is recommended that the policy also include:

- The specific areas that staff are permitted to smoke.
- Fireproof receptacles and ashtrays in areas staff are permitted to smoke.
- Fire-resistant furniture in smoking areas. Furniture is considered fire-resistant if it is made of solid wood construction, with no cushions or upholstery, or is made of hard plastic or resin-like substances. It is recommended that facilities do not use table umbrellas unless they are a reasonable distance from fireproof receptacles and ashtrays or are made of a fire resistant material.
- How staff must respond to a fire in a designated smoking area, including evacuation and the location of the designated area's closest fire extinguisher.

**The Clean Indoor Air Act** - Facilities are considered "public places" under the Clean Indoor Air Act (35 P.S. § 637.1 – 637.11) and thus are subject to those regulations as well. According to the Act, facilities must post a sign at each entrance that states "Smoking Permitted in Designated Areas Only" or "No Smoking." The international "No Smoking" symbol is also permitted.

**Inspection Procedures:** Inspectors will determine if the facility permits tobacco use on the premises. If tobacco use is permitted, inspectors will verify that fire-safety procedures exist and that they contain the content required by § 3800.147(c)(1). Inspectors will also verify that staff smoking areas are out of the sight of children.

**Primary Benefit:** Greatly reduces the risk of fire associated with unsafe smoking and ensures that children are not aware of staff smoking or influenced by it.

### Health and Behavioral Health Services

<b>148a</b>	3800.148(a) - The facility shall identify acute and chronic conditions of a child and shall arrange for or provide appropriate medical treatment.
<b>148b</b>	3800.148(b) - Medically necessary physical and behavioral health services, diagnostic services, follow-up examinations and treatment, such as medical, nursing, pharmaceutical, dental, dietary, hearing, vision, blood lead level, psychiatric and psychological services that are planned or prescribed for the child, shall be arranged for or provided.

**Discussion:** These regulations require that children receive necessary care, treatment, and services, and establish that the facility is responsible for meeting children's basic needs.

See also §§ 3800.32(k), (l), (o).

**Inspection Procedures:** Inspectors will review child records and may also interview staff and children to determine if the facility is in compliance with the regulation.

**Primary Benefit:** Ensures that children in care receive essential medical, social, and personal care services.

## Emergency Medical Plan

**149a**

3800.149(a) - The facility shall have a written emergency medical plan listing the following:

- (1) The hospital or source of health care that will be used in an emergency.
- (2) The method of transportation to be used.
- (3) An emergency staffing plan.
- (4) Medical and behavior health conditions or situations under which emergency medical care and treatment are warranted.

**Discussion:** Many facilities report confusion regarding this regulation. The requirement for these procedures is specific to *medical* emergencies, not emergencies related to evacuation that are required under § 3800.123. It is strongly recommended that a facility's plan work in conjunction with the requirements at § 3800.241. For example, the facility's plan can address how the facility will ensure that emergency medical information for each child is accessible and how that information will be provided to the treating hospital or transporting EMT.

An emergency staffing plan should address the facility's plan to maintain adequate staffing levels in the event that one or more staff persons must leave the facility for a medical emergency involving a child or themselves.

**Inspection Procedures:** Inspectors will verify that the facility's emergency medical plan includes all of the content required by this regulation.

**Primary Benefit:** The Emergency Medical Plan is a plan that ensures immediate and direct access to medical care and treatment for serious injury, illness or both. Having a thorough, informative Emergency Medical Plan is essential to provide emergency medical care of children.

**149b**

3800.149(b) - The child's parent and, if applicable, the child's guardian or custodian, shall be given a copy of the emergency medical plan upon admission.

**Discussion:** A copy of the signed statement or documentation to obtain the signatures must be kept in the child's record pursuant to § 3800.243(12).

**Inspection Procedures:** Inspectors will review child records to verify that signed statements are present.

**Primary Benefit:** Ensures that children and their responsible parties have ready access to the above information. Emergency medical plans provide a child's parent or legal custodian with up-front information on how the facility will handle an emergency situation involving their child.

**149c**

3800.149(c) - The child's parent and, if applicable, the child's guardian or custodian, shall be notified immediately if the emergency plan is implemented for the child.

**Discussion:** In most circumstances, the implementation of the facility's emergency medical plan will require the submission of a reportable incident under § 3800.16(c) and immediate notification of the child's responsible parties of that incident under § 3800.16(h). Documentation in the HCSIS system of the notification of the incident can serve as documentation of compliance with this regulation.

See also § 3800.16.

**Inspection Procedures:** Inspectors will review child records to determine if a child's parents and/or guardian or custodian was notified if the emergency plan was implemented for a child.

**Primary Benefit:** Provides a child's parent or legal custodian with notification that their child was involved in a medical emergency and affords them the opportunity to respond and be involved in the child's medical care.

# STAFF HEALTH

## Staff Health Statement

<b>151</b>	3800.151 - A staff person or volunteer who comes into direct contact with the children or who prepares or serves food, shall have a statement signed and dated by a licensed physician, certified registered nurse practitioner or licensed physician's assistant, within 12 months prior to working with children or food service and every 2 years thereafter, stating that the person is free of serious communicable disease that may be spread through casual contact or that the staff person has a serious communicable disease that may be spread through casual contact but is able to work in the facility if specific precautions are taken that will prevent the spread of the disease to children.
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**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review staff records to verify that signed health statements are present and were completed within the required timeframes.

**Primary Benefit:** Prevents children from contracting a serious communicable disease.

## Serious Communicable Diseases

<b>152</b>	3800.152 - (a) If a staff person or volunteer has a serious communicable disease that may be spread through casual contact, written authorization from a licensed physician, certified nurse practitioner or licensed physician's assistant is required for the person to be present at the facility. (b) Written authorization from a licensed physician, certified nurse practitioner or licensed physician's assistant shall include a statement that the person will not pose a serious threat to the health of the children and specific instructions and precautions to be taken for the protection of the children. (c) The written instructions and precautions specified in subsection (b) shall be followed.
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**Discussion:** Please see Appendix B for a non-exhaustive listing of serious communicable diseases.

**Inspection Procedures:** If a staff person or volunteer has a serious communicable disease that may be spread through casual contact, inspectors will review staff records to verify that the requirements of the regulation are present and being followed as ordered.

**Primary Benefit:** Prevents children from contracting a serious communicable disease.

# NUTRITION

## Three Meals A Day

<b>161</b>	3800.161 - At least three meals and one snack a day shall be provided to the children.
<p><b>Discussion:</b> It is recommended that there be no more than 15 hours between the evening meal and the first meal of the next day and that there is no more than 6 hours between breakfast and lunch, and between lunch and supper.</p> <p>When a child misses a meal due to an appointment, visit, or other reason, food adequate to meet daily nutritional requirements must be available and offered to the child.</p> <p>It is recommended that drinking water be available to the children at all times.</p> <p><b>Inspection Procedures:</b> Inspectors will interview the director, staff, and/or children of the facility to determine if the facility serves at least three meals and one snack a day. Inspectors may also be present during the facility's mealtime to observe the meals served by the facility.</p> <p><b>Primary Benefit:</b> A person's body requires a constant input of energy and nutrients at least three times a day for proper nutrition.</p> <p><b>Exceptions:</b> Regulation § 3800.161 does not apply to day treatment facilities (as per § 3800.311).</p>	

## Quantity of Food

<b>162a</b>	3800.162(a) - The quantity of food served shall meet minimum daily requirements as recommended by the United States Department of Agriculture, unless otherwise recommended in writing by a licensed physician, certified nurse practitioner or licensed physician's assistant for a specific child.
<p><b>Discussion:</b> For information on quantity of food and providing nutritionally-balanced meals, please visit the United States Department of Agriculture's internet website.</p> <p><b>Inspection Procedures:</b> Inspectors will interview the director, staff, and/or children of the facility to determine if the facility's meals meet the recommended minimum daily requirements established by the United States Department of Agriculture. Inspectors may also be present during the facility's mealtime to observe the meals served by the facility.</p> <p><b>Primary Benefit:</b> The recommended quantity and types of food established by the United States Department of Agriculture are intended to reflect the best scientific judgment on nutrient allowances for the maintenance of good health and to serve as the basis for evaluating the adequacy of diets of groups of people.</p> <p><b>Exceptions:</b> Regulation § 3800.162 does not apply to day treatment facilities if the facility does not provide meals (as per § 3800.311).</p>	
<b>162b</b>	3800.162(b) - Additional portions of meals shall be available for the children.
<p><b>Discussion:</b> The requirement to provide additional portions of meals does not mean that unlimited amounts of food or beverages have to be provided. This regulation also does not mean that a full second meal must be available; or that all food items served at the meal must be available for second helpings (for example, the facility may offer second helpings of salad and fruits only).</p> <p><b>Inspection Procedures:</b> Inspectors will interview the director, staff, and/or children of the facility to determine if the facility provides additional portions of meals at mealtimes to children. Inspectors may also be present during the facility's mealtime to observe the meals served by the facility.</p> <p><b>Primary Benefit:</b> Sufficient food ensures that a child's appetite is satiated, and that a child is not left feeling hungry after a meal.</p>	

**Exceptions:** Regulation § 3800.162 does not apply to day treatment facilities if the facility does not provide meals (as per § 3800.311).

### Food Groups and Alternative Diets

**163a**

3800.163(a) - Each meal shall contain at least one item from the dairy, protein, fruits and vegetables and grain food groups, unless otherwise recommended in writing by a licensed physician, certified nurse practitioner or licensed physician's assistant for a specific child.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will interview the director, staff, and/or children of the facility to determine if the facility's meals contain at least one item from the dairy, protein, fruits and vegetables and grain food groups. Inspectors may also be present during the facility's mealtime to observe the meals served by the facility.

**Primary Benefit:** A person's body requires a constant input of energy and nutrients at least three times a day for proper nutrition. Following medical professionals' directions regarding special diets is important to prevent illness.

**Exceptions:** Regulation § 3800.163 does not apply to day treatment facilities if the facility does not provide meals (as per § 3800.311).

**163b**

3800.163(b) - Dietary alternatives shall be available for a child who has special health needs, religious beliefs regarding dietary restrictions or vegetarian preferences.

**Discussion:** If a physician or other medical professional has recommended, in writing, an alternate diet for the child, the medically prescribed diet shall be followed.

**Inspection Procedures:** Inspectors will review child record, as well as interview staff and children regarding dietary alternatives for children with special health needs, religious beliefs or vegetarianism. Inspectors may also be present during the facility's mealtime to observe the meals served by the facility.

**Primary Benefit:** It is important that the facility make dietary alternatives available for children who have special health needs so that children have a choice of food that meets their health needs. Facilities providing dietary alternatives for children who have certain religious beliefs help the children to ensure that they are fulfilling precedents established by their religion.

**Exceptions:** Regulation § 3800.163 does not apply to day treatment facilities if the facility does not provide meals (as per § 3800.311).



### Withholding or Forcing of Food Prohibited

**164a**

3800.164(a) - A facility may not withhold meals or drink as punishment.

**Discussion:** Food and beverages may be withheld in accordance with prescribed medical or dental procedures.

**Inspection Procedures:** Inspectors will interview the director, staff, and/or children to determine if the facility withholds meals or drinks as punishment.

**Primary Benefit:** It is not healthy for a child to have meals or drinks withheld. Doing as such may jeopardize a child's health.

**164b**

3800.164(b) - A child may not be forced to eat food.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will interview the director, staff, and/or children to determine if the facility forces children to eat food.

**Primary Benefit:** A child has the right to not eat; this is a matter of dignity and respect. In addition, forcing a child to eat may cause choking.

# TRANSPORTATION

## Safe Transportation

<b>171(1)</b>	3800.171(1) – If the facility staff persons or facility volunteers provide transportation for the children, the child care worker to child ratios specified in § 3800.55 (relating to child care worker) apply.
<b>171(2)</b>	3800.171(2) – If the facility staff persons or facility volunteers provide transportation for the children, each child shall be in an individual, age and size appropriate, safety restraint at all times the vehicle is in motion.

**Discussion:** Safety restraints utilized by the facility must be compliant with the regulations set forth by the Pennsylvania Department of Transportation under Title 67 PA Code Chapter 102.

Generally, Chapter 102 includes the following:

- Children under the age of 4 must be securely fastened in a seat belt and a child passenger restraint system appropriate for their height and weight in accordance with the recommendations of the manufacturer. Children ages 4 to 7 must be securely fastened in a seat belt and an appropriately fitting child booster seat in accordance with the recommendations of the manufacturer.
- If a child is 4 to 7 years old, but weighs less than 40 pounds, that child may be secured in a child passenger restraint system appropriate for their height and weight in accordance the manufacturer, instead of using a booster seat.
- Children ages 4 to 7 who weigh more than 80 pounds or who are of a height of 4 feet 9 inches or taller may be fastened in the seat belt without the use of a child booster seat.
- For children ages 8 or older, an appropriate safety restraint usually means seatbelts, but may include other devices based on the individual needs of the child such as a physical disability.

Any vehicle utilized by a facility must meet the Federal Motor Vehicle Safety Standards and PennDot’s regulations outlined in Pa Code 67, Chapter 171. At a minimum, this includes:

- A valid driver’s license for each vehicle operator
- A vehicle registration
- Insurance coverage
- A current inspection
- A commercial driver’s license for vehicle operator, if applicable.

**Inspection Procedures:** If the facility provides transportation services and staff transports children, inspectors will review staff schedules to verify child ratios. Inspectors will also interview staff, volunteers and children to determine if each child uses an individual, age and size appropriate, safety restraint at all times the vehicle is in motion. Inspectors may also inspect the source of transportation to determine if safety restraints are present and appropriate for the children being transported.

**Primary Benefit:** Safety restraints prevent serious injuries in accidents.

**Exceptions:** Regulation § 3800.171(1) does not apply to secure care facilities (as per § 3800.273). Regulation § 3800.171(1) does not apply to day treatment facilities (as per § 3800.311).

<b>171(4)</b>	3800.171(4) – If the facility staff persons or facility volunteers provide transportation for the children, the driver of a vehicle shall be 21 years of age or older.
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**Discussion:** Any vehicle utilized by a facility must meet the Federal Motor Vehicle Safety Standards and PennDot’s regulations outlined in Pa Code 67, Chapter 171. At a minimum, this includes:

- A valid driver’s license for each vehicle operator
- A vehicle registration
- Insurance coverage
- A current inspection
- A commercial driver’s license for vehicle operator, if applicable.

Failing to comply with the Department of Transportation's requirements when transporting children may result in a violation of Article X of the Public Welfare Code which requires that a facility meet the requirements of all applicable statutes.

**Inspection Procedures:** If the facility provides transportation services and staff transports children, inspectors will review staff records to verify age on staff driver's licenses.

**Primary Benefit:** Ensures that children will be transported by a person of appropriate age and driving experience.

# MEDICATIONS

## Storage of Medications

**181a**

3800.181(a) - Prescription and over-the-counter medications shall be kept in their original containers.

**Discussion:** The original label for prescription medications must be the original pharmacy label (see § 3800.182(a)).

**Inspection Procedures:** Inspectors will inspect the medications to ensure they are kept in the original labeled containers.

**Primary Benefit:** Reduces the possibility of misplacing medications or administering the wrong medication to a child.

**181b**

3800.181(b) - Prescription and potentially poisonous over-the-counter medications shall be kept in an area or container that is locked.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will inspect the medications stored by the facility to determine if they are kept in an area or container that is locked.

**Primary Benefit:** Medications will be safe from contamination, spillage or theft and children who are unable to self-administer medications will be safe from harming themselves with the medications.

**181c**

3800.181(c) - Prescription and potentially poisonous over-the-counter medications stored in a refrigerator shall be kept in a separate locked container.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will inspect any refrigerated medications to ensure they are kept in a locked refrigerator, a refrigerator that is in a locked room or a locked container inside a refrigerator.

**Primary Benefit:** Refrigerated medications will be safe from contamination, spillage, theft, or misuse of the medications by children who cannot self-administer medications.

**181d**

3800.181(d) - Prescription and over-the-counter medications shall be stored separately.

**Discussion:** The requirement to store prescription and over-the-counter medications separately refers to "stock bottles" of medications kept for ad-hoc administration.

**Inspection Procedures:** Inspectors will inspect the facility's medication storage area to determine if prescription and over-the-counter medications are stored separately.

**Primary Benefit:** Ensures that medications will be stored in a manner that prevents contamination, spillage, theft, or misuse.

**181e**

3800.181(e) - Prescription and over-the-counter medications shall be stored under proper conditions of sanitation, temperature, moisture and light.

**Discussion:** Some medications, such as insulin, often have instructions to be stored within a certain temperature range. The facility should pay special attention to the medication labels and manufacturer's instructions of medications to ensure they are stored properly.

**Inspection Procedures:** Inspectors will inspect the medications to determine if they are stored in accordance with the manufacturer's instructions.

**Primary Benefit:** Ensures that medications will be stored in a manner that prevents damage or loss.

<b>181f</b>	3800.181(f) - Discontinued and expired medications, and prescription medications for children who are no longer served at the facility, shall be disposed of in a safe manner.
<p><b>Discussion:</b> “No longer served at the facility” means “permanently relocated and no longer living in the facility.”</p> <p>Acceptable disposal methods include:</p> <ul style="list-style-type: none"> <li>• Adding a small amount of water to a solid drug, or some absorbent material such as cat litter, sawdust or flour to liquid drugs to discourage any unintended use of the drug.</li> <li>• Double seal the container in another container or heavy bag to prevent easy identification of the drug container or to prevent a glass container from breaking.</li> <li>• Depositing discontinued or expired medications into an authorized collection receptacle located at the facility (an authorized retail pharmacy or a hospital/clinic with an on-site pharmacy may install, manage and maintain a collection receptacle at a child residential and day treatment facility, as per the DEA’s Disposal Act of 2014).</li> <li>• Any written disposal instructions by a pharmacist.</li> <li>• Any method in accordance with the Department of Environmental Protection and Federal and State regulations.</li> </ul> <p><b>Inspection Procedures:</b> Inspectors will interview staff to determine if the medications are destroyed in a safe manner. Inspectors may interview staff to determine if medications are given to the child’s parent or guardian when the child permanently leaves the facility.</p> <p><b>Primary Benefit:</b> Ensures the facility properly destroys medications to prevent abuse.</p>	

<b>Labeling of Medications</b>	
<b>182a</b>	3800.182(a) - The original container for prescription medications shall be labeled with a pharmacy label that includes the child’s name, the name of the medication, the date the prescription was issued, the prescribed dosage and the name of the prescribing physician.
<p><b>Discussion:</b> Facilities may keep stock bottles of OTC medications for ad-hoc administration to children, but facilities are responsible for ensuring that children may take OTC medications without causing allergic reactions or impacting prescription medications prescribed to the child.</p> <p>Facilities may keep a "stock" supply of epinephrine injections as long as the medication was dispensed by a licensed pharmacist and includes a pharmacy label with the name of the medication, date the prescription was issued, and prescribed dosage. Epinephrine injections must be kept in a locked area in accordance with § 3800.181. They can only be administered by a staff person that qualifies to administer medications under § 3800.187 and only if there is an order from a physician to administer the medication to that specific child prior to administration.</p> <p>Oral orders by a prescriber may only be received by a registered nurse (RN) or licensed practical nurse (LPN). If a RN or LPN takes an oral order from a prescriber the Department recommends the following:</p> <ul style="list-style-type: none"> <li>• The change is immediately documented by the RN/LPN in the medication record.</li> <li>• The RN/LPN communicates directly with all staff persons responsible for the administration of the medication.</li> <li>• The RN/LPN follows-up with the physician to receive a written order from the physician within 48 hours.</li> </ul> <p><b>Inspection Procedures:</b> Inspectors will review medication containers and epinephrine injections to ensure that they are properly labeled. If an epinephrine injection has been used on a child since the last inspection, inspectors will interview staff and review the child records to ensure proper procedures are being followed.</p> <p><b>Primary Benefit:</b> Reduces the possibility that medication will be administered to the wrong child or improperly administered.</p>	

182b

3800.182(b) - Over-the-counter medications shall be labeled with the original label.

**Discussion:** Stock medications may not be removed from their original containers and stored in smaller containers.

Label requirements apply as follows:

- For bottles – the label must appear on each bottle
- For blister packs – the label must appear on the blister pack, not on each individual dose
- For unit dose dispensers – the label must appear on the dispenser, not on each individual dose
- For sample packs of medications – the prescribing physician should include documentation that contains the above information

**Inspection Procedures:** Inspectors will review medication containers to ensure that they are properly labeled.

**Primary Benefit:** Reduces the possibility of misplacing medications or administering the wrong medication to a child.

### Use of Prescription Medications

183

3800.183 - Prescription medications shall be used only by the child for whom the medication was prescribed.

**Discussion:** No longer served at the facility means “permanently relocated and no longer living in the facility”. Acceptable disposal methods include:

- Adding a small amount of water to a solid drug, or some absorbent material such as cat litter, sawdust or flour to liquid drugs to discourage any unintended use of the drug.
- Double seal the container in another container or heavy bag to prevent easy identification of the drug container or to prevent a glass container from breaking.
- Depositing discontinued or expired medications into an authorized collection receptacle located at the facility (an authorized retail pharmacy or a hospital/clinic with an on-site pharmacy may install, manage and maintain a collection receptacle at a child residential and day treatment facility, as per the DEA’s Disposal Act of 2014).
- Any written disposal instructions by a pharmacist.
- Any method in accordance with the Department of Environmental Protection and Federal and State regulations.

An epinephrine autoinjector, often referred to as an “EpiPen” is a prescription medication and must be prescribed specifically to one child. An Epinephrine autoinjector is an intramuscular injection and only staff trained pursuant to 3800.188 are qualified to administer this medication.

**Inspection Procedures:** Inspectors will review medications to ensure that medications kept at the facility are for current residents and are not expired, as well as review facility’s medication disposal method.

**Primary Benefit:** Ensures children properly receive prescribed medications, do not receive medications that were not prescribed for them, and that discontinued medications are not misused.

## Medication Log

**184a**

3800.184(a) - A medication log shall be kept to include the following for each child:

- (1) A list of prescription medications.
- (2) The prescribed dosage.
- (3) Possible side effects.
- (4) Contraindicated medications.
- (5) Specific administration instructions, if applicable.
- (6) The name of the prescribing physician.

**Discussion:** A separate medication log for each child should be kept.

The medication log is commonly referred to as the MAR (medication administration record). Proper MAR use is critical, as it:

- Creates a record of proper medication administration
- Allows physicians and emergency personnel to know when a medication was last administered
- Creates a system to account for medications, especially controlled substances

**What administration information must be recorded on the MAR?** If several pills are packaged together in one blister pack and administered together at the same time, information for each pill in the blister must be listed individually on the MAR. If a child refuses to take a pill or if one or more of the pills in the blister is not administered, the facility must have a means of documenting this.

The administration of a medication by a source outside of the facility (such as a monthly scheduled injection in a physician's office or medication administered while visiting family) **should not** be documented on the MAR for the facility. Only medication given by staff members or the self-administration of a medication observed by a staff member is to be documented on the MAR. However, any documentation given to the child as a result of receiving administration of a medication by a source outside of the facility (such as invoices, doctor's notes; etc) should be kept in the child's record for reference purposes.

The medication record may include the staff person's initials (in lieu of the staff person's full name) if there is a master key showing each staff person's initials and his or her full name, so the individual staff person can be linked to the specific MAR entry.

If a medication is self-administered by a child, the MAR should notate that the medication is self-administered and the staff person that observed the administration.

If there is a specific time of administration listed on the medications record, such as 8:00 AM and 8:00 PM, the actual clock time of each administration is not required to be recorded. The record can simply include staff initials. This means the medication was given within 60 minutes plus or minus the specified time. If the medication record does not list a clock time (such as am, pm, at breakfast, after lunch) the exact time of administration must be recorded.

Pro re nata (PRN) means on an "as needed" basis.

"Specific administration instructions" include any instructions such as: take with food, do not take with certain types of other drugs, and so on.

The requirements of § 3800.184(a)(3) and § 3800.184(a)(4) for side effects and contraindicated medications to be listed on the medication log, does not need to be recorded on the actual medication log as long as it is readily available from a reliable source in the medication administration area. For example, a facility could utilize the current version of a Nursing Drug Handbook as long as all staff persons that administer medications have access to and are familiar with how to use the Nursing Drug Handbook. This applies only § 3800.184(a)(3) and § 3800.184(a)(4); all other information required by § 3800.184(a) must be documented directly on the medication log.

**Electronic Signatures** - An electronic signature is permissible, as long as the computer system allows only the appropriate person to sign that a medication was administered to a child.

**Inspection Procedures:** Inspectors will review the medication log and the medications kept by the facility to ensure all children who receive medication administration services have a complete medication log that is kept

current.

**Primary Benefit:** The facility's staff will be able to track all medications a child receives and to ensure all medications are administered as prescribed.

<b>184b</b>	3800.184(b) - For each prescription and over-the-counter medication including insulin administered or self-administered, documentation in the log shall include the medication that was administered, dosage, date, time and the name of the person who administered or self-administered the medication.
<b>184c</b>	3800.184(c) - The information in subsection (b) shall be logged at the same time each dosage of medication is administered or self-administered.

**Discussion:** All prescription medications and OTC medications administered by staff or self-administered by children must be recorded on the MAR. Nutritional supplements such as vitamins, liquid supplements that enhance caloric intake, or liquid supplements that replenish electrolytes are not considered medications and do not need to be recorded on the MAR, but the facility must be aware of and provide nutritional supplements if ordered by a physician.

Remember, facilities are responsible for ensuring that children may take OTC medications without causing allergic reactions or impacting prescription medications prescribed to the child.

**Inspection Procedures:** Inspectors will interview staff and review the medication log to determine if the information listed in the regulation is documented on the facility's medication log at the same time each dosage of medication is administered or self-administered.

**Primary Benefit:** Ensures medication log accuracy by minimizing the chances of documentation mistakes if a child refuses a medication.

### Medication Errors

<b>185a</b>	3800.185(a) - Documentation of medication errors shall be kept in the medication log. Medication errors include the failure to administer medication, administering the incorrect medication, administering the correct medication in an incorrect dosage or administering the correct medication at the incorrect time.
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**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review child records for children affected by medication errors to determine if documentation of the medication error is in the record.

**Primary Benefit:** Protects the home by documenting medication errors, and allows the facility to identify and prevent chronic medication errors.

<b>185b</b>	3800.185(b) - After each medication error, follow-up action to prevent future medication errors shall be taken and documented.
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**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will verify that the facility documents or has a means to document medication errors as defined by this regulation. If medication errors have occurred, inspectors will verify that follow-up action was taken and recorded.

**Primary Benefit:** The facility's staff persons will be able to track all medications a child receives and to ensure all medications are administered as prescribed.



### Adverse Reaction

<b>186</b>	3800.186 - If a child has a suspected adverse reaction to a medication, the facility shall notify the prescribing physician, the child's parent and, if applicable, the child's guardian or custodian, immediately. Documentation of adverse reactions and the physician's response shall be kept in the child's record.
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**Discussion:** The facility should immediately seek emergency medical treatment for any serious suspected adverse reactions to medications.

**Inspection Procedures:** Inspectors will review records for children affected by medication errors to determine if documentation of the medication error and the physician's response are in the record.

**Primary Benefit:** Ensures that children will receive medical attention in the event of a medication-related emergency and protects the facility by creating a record of actions taken in response to an adverse reaction to a medication.

### Administration

<b>187a</b>	<p>3800.187(a) - Prescription medications and injections of any substance shall be administered by one of the following:</p> <ol style="list-style-type: none"> <li>(1) A licensed physician, licensed dentist, licensed physician's assistant, registered nurse, certified registered nurse practitioner, licensed practical nurse or licensed paramedic.</li> <li>(2) A graduate of an approved nursing program functioning under the direct supervision of a professional nurse who is present in the facility.</li> <li>(3) A student nurse of an approved nursing program functioning under the direct supervision of a member of the nursing school faculty who is present in the facility.</li> <li>(4) A staff person who meets the criterion in § 3800.188 (relating to medications administration training) for the administration of oral, topical and eye and ear drop prescriptions, insulin injections and epinephrine injections for insect bites.</li> <li>(5) A child who meets the requirements in § 3800.189 (relating to self-administration of medications).</li> </ol>
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**Discussion:** For information on § 3800.187(a)(4), please see § 3800.188(a).

**Inspection Procedures:** For facilities that provide medication administration services, inspectors will review the qualifications of staff persons who administer medications to verify that such staff persons are qualified to do so. Note: A violation of this regulation is to be cited if someone other than the professionals listed administer medications.

**Primary Benefit:** Ensures that medication will be administered safely and in accordance with best practices by trained professionals.

<b>187b</b>	3800.187(b) - Prescription medications and injections shall be administered according to the directions specified by a licensed physician, certified registered nurse practitioner or licensed physician's assistant.
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**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review medication logs and interview staff and children regarding medication administration to determine if medications and injections are being administered according to the directions given by a medical professional. Inspectors may also observe staff administer medications.

**Primary Benefit:** Ensures that medications are administered by or in the supervision of qualified personnel.

## Medications Administration Training

188a

3800.188(a) - A staff person who has completed and passed a Department-approved medications administration course within the past 2 years is permitted to administer oral, topical and eye and ear drop prescription medications and epinephrine injections for insect bites.

**Discussion:** The Department's approved medications administration course is the Office of Developmental Program's "Train-the-Trainer" course. The course is designed such that once people complete the course offered by the Department, they can train other people to safely administer medications. People who attend the course are taught how to provide initial training and how to complete an "annual practicum".

A person who wishes to attend the Train-the-Trainer course may not attend the course until (s)he has successfully completed a medication administration training by an individual who has completed the Department-approved Train-the-Trainer course. After successful completion of the medication administration course, an individual is then permitted to attend the Train-the-Trainer course. In other words, a person must be trained by a trainer before (s)he can take the Train-the-Trainer course.

Trainers (those that took the Trainer-the-Trainer course) are required to monitor the trained (the people who they train) by observing the trained staff administer medications. The number depends on how much time the person has been giving medications and how much time since the person took the original course. The trainer must also review some MARs using a standard rubric. This also depends on which year post initial training a person is in. This constitutes the annual practicum. Trainers that administer medication as well as provide training are required to do the same thing as the students; this can be done by another trainer or by a practicum observer. Trainers are required to take a recertification class every three years.

In order to meet this requirement, as well as § 3800.188(b), a staff member who passed the medication administration course initially must complete the annual practicum as defined by the course every year. The medication administration course/test does not have to be completed every two years.

Licensed facilities are eligible to send an employee to training. Persons who attend the Trainer-the-Trainer course must be an employee of a licensed facility in Pennsylvania.

Individuals who completed the Train-the-Trainer course for the Office of Developmental Programs (formerly the Office of Mental Retardation [OMR]) after fall 2004 are permitted to train facility staff if they have completed the new Train-the-Trainer course. Anyone who has completed the Train-the-Trainer course prior to Fall 2004 must take the new course before providing any training.

The trainer must work for a licensed legal entity that uses the training. This includes legal entities licensed under the following regulations: 2380, 2600, 2800, 3800, 6400, 6600 or Adult Day Living Centers. No independent trainers who do not work for a legal entity licensed under any of the specified regulations may provide this training.

A non-medically licensed staff person is permitted to administer medications by nebulizer treatment or by insertion of suppositories following successful completion of the medication administration training in § 3800.188, as well as specific training conducted by a local clinician. A local clinician includes:

- A doctor
- An RN
- An LPN
- A pharmacist who is familiar with the child's needs
- A licensed respiratory therapist

Training in the administration of suppositories and nebulizer treatments should be individualized for each child; however, if the same administration technique is being taught, group training is acceptable.

A staff person who has successfully completed the educational and training requirements as defined in § 3800.188(a) and § 3800.188(b) may administer epinephrine or insulin injections only. This regulation strictly limits staff to being able to administer these 2 kinds of injections only. The Department strongly encourages facilities to provide staff with additional training relating to the administration of epinephrine injections.

A non-medically licensed staff person is permitted to administer liquid narcotics, following successful completion of the medication administration training in § 3800.188. The medication administration training teaches staff how to keep a log with a count of the medications for controlled substances.

A facility is not required to have its own trainer. A facility may work with other licensed facilities, personal care homes, or community homes for individuals with intellectual disabilities to secure a qualified trainer.

**Inspection Procedures:** Inspectors will review the staff training records to determine if non-medically licensed staff persons who administer medications have complied with the above requirements.

**Primary Benefit:** Staff persons will be trained in the proper procedures to safely and correctly administer medications to children.

**188b**

3800.188(b) - A staff person who has completed and passed a Department-approved medications administration course and who has completed and passed a diabetes patient education program within the past 12 months that meets the Standards for Diabetes Patient Education Programs of the Pennsylvania Department of Health is permitted to administer insulin injections.

**Discussion:** An education program that meets the Standards for Diabetes Patient Education Programs of the Pennsylvania Department of Health is one provided by an individual who is a certified diabetes instructor who has been trained by the National Certification Board for Diabetic Educators. The diabetic education program will include training on drawing up and administering insulin.

Certified Diabetes Educators can be found through the following sources:

- The Education Department of local hospitals
- The American Association of Diabetes Educators
- The American Diabetes Association (ADA)
- The Department of Health's local diabetes consultants
- The Joslin Diabetes Center with West Penn Hospital (Western Region Only)

Nurse Practitioners with an Advanced Diabetes Management Certification are also permitted to provide the diabetes patient education program.

**Inspection Procedures:** Inspectors will review the training records for non-medically licensed staff persons who administer insulin injections to determine if they have successfully completed a Department-approved diabetes patient education program within the past 12 months AND the training required by § 3800.188(a).

**Primary Benefit:** Ensures that staff who administer insulin do so in a safe manner.

**188c**

3800.188(c) - A record of the training shall be kept including the person trained, the date, source, name of trainer, content and length of training.

**Discussion:** This regulation includes documentation of both § 3800.188(a) and (b).

**Inspection Procedures:** Inspectors will review training records to determine if the information required by the regulation is present.

**Primary Benefit:** Allows the facility to track medication and diabetes training to ensure all staff who administer medications and/or insulin have received the necessary training.

### Self-Administration of Medications

189

3800.189 - A child is permitted to self-administer medications, insulin injections and epinephrine injections for insect bites, if the following requirements are met:

- (1) A person who meets the qualifications of § 3800.187(a)(1)—(4) (relating to administration) is physically present observing the administration and immediately records the administration in accordance with § 3800.184 (relating to medication log).
- (2) The child recognizes and distinguishes the medication and knows the condition or illness for which the medication is prescribed, the correct dosage and when the medication is to be taken.

**Discussion:** A child who is permitted to self-administer medications is also permitted to administer medications to their infant or toddler as long as a staff person who has been trained in medication administration observes the medication administration and offers assistance as needed.

**Inspection Procedures:** Inspectors will review the medication log and verify that persons who administered medications to children and/or children who self-administered medications were qualified to do so.

**Primary Benefit:** Ensures that medications are administered by or in the supervision of qualified personnel.

# RESTRICTIVE PROCEDURES

## Appropriate Use of Restrictive Procedures

<b>202a</b>	3800.202(a) - A restrictive procedure may not be used in a punitive manner, for the convenience of staff persons or as a program substitution.
<b>202b</b>	3800.202(b) - With the exception of exclusion as specified in § 3800.212 (relating to exclusion), a restrictive procedure may be used only to prevent a child from injuring himself or others.
<b>202c1</b>	3800.202(c)(1) - For each incident in which use of a restrictive procedure is considered, every attempt shall be made to anticipate and de-escalate the behavior using methods of intervention less intrusive than restrictive procedures.
<b>202c2</b>	3800.202(c)(2) - For each incident in which use of a restrictive procedure is considered, a restrictive procedure may not be used unless less intrusive techniques and resources appropriate to the behavior have been tried but have failed.
<b>202c3</b>	3800.202(c)(3) - For each incident in which use of a restrictive procedure is considered, a restrictive procedure shall be discontinued when the child demonstrates he has regained self-control.

**Discussion:** Restraints should only be used after less intrusive behavioral interventions, such as verbal or non-verbal de-escalation techniques, have been employed. There are many alternatives to restraint use in a facility.

On June 21, 2010, the Department issued PA bulletin 3800-09-01 that includes strategies and practices to eliminating unnecessary restraints. For a copy of this bulletin, please contact BHSL's Operator Support Hotline.

Please see "Restrictive Procedures" in "Regulatory Issues and Frequently-Occurring Situations" for more information.

**Exceptions:**

- Food and beverages may be withheld in accordance with prescribed medical or dental procedures.
- The use of a pressure point technique that applies pressure at the child's jaw point for the purpose of bite release, is permitted.
- Devices used to provide support for functional body position or proper balance and a device used for medical treatment, such as sand bags to limit movement after medical treatment, a wheelchair belt that is used for body positioning and support or a helmet used for prevention of injury during seizure activity, are not considered mechanical restraints.
- A manual restraint does not include a manual assist of any duration for a child during which the child does not physically resist or a therapeutic hold for a child who is 8 years of age or younger for less than 10 minutes during which the child does not physically resist.

**Inspection Procedures:** Inspectors will review child records, and conduct interviews with the director, staff and children, if needed. Inspectors may also receive direction from the regional office.

**Primary Benefit:** Protects children from intrusive behavioral interventions as punishment, and sets the parameters for procedures when behavioral interventions are needed.

### Restrictive Procedure Plan

<b>203a</b>	3800.203(a) - For each child for whom restrictive procedures will be used beyond unanticipated use specified in § 3800.204 (relating to unanticipated use), a restrictive procedure plan shall be written and included in the ISP specified in § 3800.226 (relating to content of the ISP), prior to use of restrictive procedures.
<b>203b</b>	3800.203(b) - The plan shall be developed and revised with the participation of the child, the child's parent and, if applicable, the child's guardian or custodian, if available, any person invited by the child and the child's parent, guardian or custodian, child care staff persons, contracting agency representative and other appropriate professionals.
<b>203c</b>	3800.203(c) - The plan shall be reviewed every 6 months and revised as needed.
<b>203d</b>	3800.203(d) - The plan shall be reviewed, approved, signed and dated by persons involved in the development and revision of the plan, prior to the use of a restrictive procedure, whenever the plan is revised and at least every 6 months. The child, the child's parent and, if applicable, the child's guardian or custodian shall be given the opportunity to sign the plan.
<b>203e</b>	3800.203(e) - The plan shall include: <ol style="list-style-type: none"> <li>(1) The specific behavior to be addressed, observable signals that occur prior to the behavior and the suspected reason for the behavior.</li> <li>(2) The behavioral outcomes desired, stated in measurable terms.</li> <li>(3) The methods for modifying or eliminating the behavior, such as changes in the child's physical and social environment, changes in the child's routine, improving communications, teaching skills and reinforcing appropriate behavior.</li> <li>(4) The types of restrictive procedures that may be used and the circumstances under which the restrictive procedures may be used.</li> <li>(5) The length of time the restrictive procedure may be applied, not to exceed the maximum time periods specified in this chapter.</li> <li>(6) Health conditions that may be affected by the use of specific restrictive procedures.</li> <li>(7) The name of the staff person responsible for monitoring and documenting progress with the plan.</li> </ol>
<b>203f</b>	3800.203(f) - The plan shall be implemented as written.
<b>203g</b>	3800.203(g) - Copies of the plan shall be kept in the child's record.

**Discussion:** Whenever use of restrictive procedures is anticipated for a child, the setting must develop a restrictive procedure plan and include it in the child's Individual Service Plan (ISP). Restrictive procedure use may be anticipated based on the child health and safety assessment required by § 3800.141, the child health assessment required by § 3800.143, or through information relating to the child's behavioral history obtained as part of the setting's intake process. If restrictive procedure use is not anticipated, a restrictive procedure plan is not required unless any type of restrictive procedure is used four times for the same child in any 3-month period following admission.

Pursuant to § 3800.203(e), the plan must include, at a minimum:

- The specific behavior to be addressed, observable signals that occur prior to the behavior and the suspected reason for the behavior.
- The behavioral outcomes desired, stated in measurable terms.
- The methods for modifying or eliminating the behavior, such as changes in the child's physical and social environment, changes in the child's routine, improving communications, teaching skills and reinforcing appropriate behavior. The types of restrictive procedures that may be used and the circumstances under which the restrictive procedures may be used.
- The length of time the restrictive procedure may be applied, not to exceed the maximum time periods specified in this chapter.
- Health conditions that may be affected by the use of specific restrictive procedures.
- The name of the staff person responsible for monitoring and documenting progress with the plan.

**Remember – restrictive procedures may never be used in a punitive manner, for the convenience of staff persons or as a program substitution!**

§ 3800.203(b)-(d) and (f)-(g) set forth requirements for development, signature, review, implementation, and retention of the restrictive procedure plan. Because the restrictive procedure plan is part of the ISP, and because identical requirements for development, signature, review, implementation, and retention exist for the ISP,

compliance with § 3800.224-228 will be sufficient to establish compliance with § 3800.203(b)-(d) and (f)-(g). In other words, if settings comply with the ISP requirements, and the restrictive procedure plan is part of the ISP, then the setting is automatically in compliance with § 3800.203(b)-(d) and (f)-(g).

**Inspection Procedures:** If a child has a restrictive procedures plan, inspectors will review it to verify that the plan was developed, reviewed, and revised within the required timeframes; the plan was developed with the child, informal supports, and formal supports, to the degree possible; the plan contains all of the required content; participation in plan development was properly documented; and the plan is being properly implemented.

**Primary Benefit:** Ensures that restrictive procedures are used sparingly, appropriately, and in accordance with the wishes of the child's formal and informal supports.

### Staff Training

<b>205a</b>	3800.205(a) - If restrictive procedures are used, each staff person who administers a restrictive procedure shall have completed training within the past year in the use of restrictive procedures.
<b>205b</b>	3800.205(b) - Training shall include: <ol style="list-style-type: none"> <li>(1) Using de-escalation techniques and alternative nonrestrictive strategies and addressing the child's feelings after use of a restrictive procedure.</li> <li>(2) Child development principles appropriate for the age of the children served, to understand normal behavior reactions to stress at various ages.</li> <li>(3) The proper use of the specific techniques or procedures that may be used.</li> <li>(4) Techniques and procedures appropriate for the age and weight of the children served.</li> <li>(5) Experience of use of the specific procedures directly on each staff person and demonstration of use of the procedure by each staff person.</li> <li>(6) Health risks for the child associated with use of specific procedures.</li> <li>(7) A testing process to demonstrate understanding of and ability to apply specific procedures.</li> </ol>
<b>205c</b>	3800.205(c) - A record of the training including the person trained, the date, source, name of trainer and length of training shall be kept.

**Discussion:** There is no requirement for the content of the training beyond what is set forth in 205b, but a facility must be able to demonstrate how its training program meets each of the 7 required elements if the program's literature is not immediately clear.

**Inspection Procedures:** If the staff person applies restrictive procedures, inspectors will review specific staff training records to determine if the timeframe and content requirements of these regulations are met.

**Primary Benefit:** Reduces chance of child injury or death by improper restrictive procedure use.

## Seclusion

**206**

3800.206 - Seclusion, defined as placing a child in a locked room, is prohibited. A locked room includes a room with any type of door-locking device, such as a key lock, spring lock, bolt lock, foot pressure lock or physically holding the door shut.

**Discussion:** Seclusion includes but is not limited to locking a child in a room or area of the facility such as a closet or basement from which the child is physically prevented from leaving.

Secure settings are permitted to use seclusion techniques. As is the case with exclusion, there are specific physical site requirements for the room or area used for exclusion. These include:

- At least 40 square feet of indoor floor space.
- A minimum ceiling height of 7 feet.
- An open door or a window for observation.
- Lighting and ventilation.
- Absence of any items that might injure a child. In addition to items that are clearly hazardous, the setting should consult the child's ISP to identify any potentially-harmful items based on the child's behaviors.

Oral or written authorization by supervisory staff is required prior to each use of seclusion. During the time that a child is in seclusion, a staff person must observe the child at least every 5 minutes, and another staff person who is not continuously observing the child must check and observe the child at least every 2 hours.

Seclusion may not exceed 4 hours, unless a licensed physician, a licensed physician's assistant or registered nurse examines the child and gives written orders to continue the use of seclusion. A new examination and new orders are required for each 4-hour period the seclusion is continued.

The use of seclusion may not exceed 8 hours in any 48-hour period without a written court order.

Note that, if seclusion is interrupted for any purpose and reused within 24 hours after the initial use of seclusion, it is considered continuation of the initial seclusion period.

**Inspection Procedures:** Inspectors will review child records, interview staff, and observe children during the course of the inspection. If restrictive procedures are identified, inspectors may contact the regional office with any questions about restraint use.

**Primary Benefit:** Reduces chance of child injury or death by the use of seclusion. Protects children's rights to be treated with dignity and respect, and to be served in the least-restrictive setting possible.

**Exceptions:** Regulation § 3800.206 does not apply to secure care facilities (as per § 3800.273).

## Aversive Conditioning

**207**

3800.207 - The use of aversive conditioning, defined as the application of startling, painful or noxious stimuli, is prohibited.

**Discussion:** Aversive conditioning includes but is not limited to:

- Misting or squirting a child with water
- Subjecting the child to offensive smells
- Subjecting the child to loud noises
- Withholding a child's shoes or clothing to prevent elopement.

See also §§ 3800.32, 164, 206, 209(e), 210(b), and 211(b).

**Inspection Procedures:** Inspectors will review child records, interview staff, and observe children during the course of the inspection. If restrictive procedures are identified, inspectors may contact the regional office with any questions about restraint use.

**Primary Benefit:** Reduces chance of child injury or death by the use of aversive conditioning. Protects children's rights to be treated with dignity and respect, and to be served in the least-restrictive setting possible.



### Pressure Points

<b>208a</b>	3800.208(a) - Pressure point techniques, defined as the application of pain for the purpose of achieving compliance, are prohibited, except as provided in subsection (b).
<b>208b</b>	3800.208(b) - The use of a pressure point technique that applies pressure at the child's jaw point for the purpose of bite release, is permitted.

**Discussion:** Pressure point techniques include but are not limited to applying pressure to a child's limbs or head to cause pain.

See also §§ 3800.32, 164, 206, 209(e), 210(b), and 211(b).

**Inspection Procedures:** Inspectors will review child records, interview staff, and observe children during the course of the inspection. If restrictive procedures are identified, inspectors may contact the regional office with any questions about restraint use.

**Primary Benefit:** Reduces chance of child injury or death by the use of pressure points. Protects children's rights to be treated with dignity and respect, and to be served in the least-restrictive setting possible.

### Chemical Restraints

<b>209a</b>	3800.209(a) - A chemical restraint is a drug used to control acute, episodic behavior that restricts the movement or function of a child. A drug ordered by a licensed physician as part of ongoing medical treatment, or as pretreatment prior to a medical or dental examination or treatment, is not a chemical restraint.
<b>209b</b>	3800.209(b) - Administration of a chemical restraint is prohibited except for the administration of drugs ordered by a licensed physician and administered by licensed/certified/registered medical personnel on an emergency basis.
<b>209c</b>	3800.209(c) - If a chemical restraint is to be administered as specified in subsection (b), the following apply: (1) Immediately prior to each incidence of administering a drug on an emergency basis, a licensed physician shall have examined the child and given a written order to administer the drug. (2) Immediately prior to each readministration of a drug on an emergency basis, a licensed physician shall have examined the child and ordered readministration of the drug.
<b>209d</b>	3800.209(d) - If a chemical restraint is administered as specified in subsection (c), the following apply: (1) The child's vital signs shall be monitored at least once each hour and in accordance with the frequency and duration recommended and documented by the prescribing physician. (2) The physical needs of the child shall be met promptly.
<b>209e</b>	3800.209(e) - A Pro Re Nata (PRN) order for controlling acute, episodic behavior is prohibited.
<b>209f</b>	3800.209(f) - Documentation of compliance with subsections (b) - (e) shall be kept in the child's record.

**Discussion:** Chemical restraints may not be administered until a licensed physician examines the child and issues a written order to administer the restraint. Following the initial order, the setting may keep a supply of the medication used as a restraint on hand, but may not administer it again unless a licensed physician examines the child and orders readministration.

Chemical restraints include but are not limited to the deliberate administration, with or without the child's knowledge, of drugs or chemicals (prescribed or otherwise) to control a child's behavior.

Pursuant to § 3800.209(b), emergency chemical restraints may only be administered by "licensed, certified, or registered medical personnel." As specified at § 3800.187, the medical personnel permitted to administer "prescription medications and injections of any substance" include:

- A licensed physician, licensed dentist, licensed physician's assistant, registered nurse, certified registered nurse practitioner, licensed practical nurse or licensed paramedic.
- A graduate of an approved nursing program functioning under the direct supervision of a professional nurse who is present in the facility.

- A student nurse of an approved nursing program functioning under the direct supervision of a member of the nursing school faculty who is present in the facility.

Following the administration of an emergency chemical restraint, the child's vital signs must be monitored at least once each hour and in accordance with the frequency and duration recommended and documented by the prescribing physician. Any physical needs of the child identified during the monitoring must be met promptly.

Documentation of compliance with the above requirements (set forth at § 3800.209(b)-(e)) must be maintained in the child's record.

**Inspection Procedures:** Inspectors will review child records, interview staff, and observe children during the course of the inspection. If restrictive procedures are identified, inspectors may contact the regional office with any questions about restraint use.

**Primary Benefit:** Reduces chance of child injury or death by the use of chemical restraints. Protects children's rights to be treated with dignity and respect, and to be served in the least-restrictive setting possible.

### Mechanical Restraints

210a

3800.210(a) - A mechanical restraint is a device that restricts the movement or function of a child or portion of a child's body. Examples of mechanical restraints include handcuffs, anklets, wristlets, camisoles, helmets with fasteners, muffs and mitts with fasteners, poseys, waist straps, head straps, papoose boards, restraining sheets and similar devices.

**Discussion:** Devices used to provide support for functional body position or proper balance and a device used for medical treatment, such as sand bags to limit movement after medical treatment, a wheelchair belt that is used for body positioning and support or a helmet used for prevention of injury during seizure activity, are not considered mechanical restraints.

Mechanical restraints include but are not limited to:

- Reclining chairs from which the child cannot exit independently
- Lap belts that children cannot remove independently
- Blankets tucked so that the child's movement is limited
- Bedrails that prevent a child from exiting the bed.
- Handcuffs
- Anklets
- Wristlets
- Camisoles
- A helmet with fasteners
- Muffs and mitts with fasteners
- Waist straps
- Head straps
- Papoose boards
- Chest restraints.

**Inspection Procedures:** Inspectors will review child records, interview staff, and observe children during the course of the inspection. If restrictive procedures are identified, inspectors may contact the regional office with any questions about restraint use.

**Primary Benefit:** Reduces chance of child injury or death by the use of mechanical restraints. Protects children's rights to be treated with dignity and respect, and to be served in the least-restrictive setting possible.

<b>210b</b>	3800.210(b) - The use of a mechanical restraint is prohibited.
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**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review child records, interview staff, and observe children during the course of the inspection. If restrictive procedures are identified, inspectors may contact the regional office with any questions about restraint use.

**Primary Benefit:** Reduces chance of child injury or death by the use of mechanical restraints. Protects children's rights to be treated with dignity and respect, and to be served in the least-restrictive setting possible.

**Exceptions:** Regulation § 3800.210(b) does not apply to secure care facilities (as per § 3800.273).

<b>210c</b>	3800.210(c) - Devices used to provide support for functional body position or proper balance and a device used for medical treatment, such as sand bags to limit movement after medical treatment, a wheelchair belt that is used for body positioning and support or a helmet used for prevention of injury during seizure activity, are not considered mechanical restraints.
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**Discussion:** Secure settings may use behind-the-back handcuffs, leg restraints, and locking transportation waist belts with handcuffs in front of the child. No other mechanical restraints are permitted.

Children may **never** be handcuffed to an object or another person.

When children are not being transported, oral or written authorization by supervisory staff is required prior to each use of handcuffs or leg restraints. During the time that a child is in handcuffs or leg restraints, a staff person must check the restraint at least every 15 minutes to ensure that it is properly fitted, and a staff person who is not administering the restraint must observe the child and check the restraint at least every hour.

Handcuff and leg restraint use may not exceed 2 hours, unless a licensed physician, a licensed physician's assistant, or a registered nurse examines the child and gives written orders to continue the use of the restraint. A new examination and new orders are required for each 2-hour period the restraint is continued. Additionally, the restraint must be removed completely for at least 10 minutes for each 2-hour period that the restraint is in use to allow for movement.

The use of handcuffs and leg restraints may not exceed 4 hours in any 48-hour period without a written court order.

If a restraint is removed for any purpose other than for movement and reused within 24 hours after the initial use of the restraint, it is considered continuation of the initial restraint.

When children are being transported, permitted mechanical restraints may be used for as long as the child is in the vehicle, and the requirements to check restraints for fit, remove the restraints for movement, or receive authorization from a medical professional to use restraints beyond 2 hours do not apply.

**Inspection Procedures:** Inspectors will review child records, interview staff, and observe children during the course of the inspection. If restrictive procedures are identified, inspectors may contact the regional office with any questions about restraint use.

**Primary Benefit:** Reduces chance of child injury or death by the use of mechanical restraints. Protects children's rights to be treated with dignity and respect, and to be served in the least-restrictive setting possible.

## Manual Restraints

**211b**

3800.211(b) – Manual restraints that apply pressure or weight on the child's respiratory system are prohibited.

**Discussion:** A manual restraint does not include a manual assist of any duration for a child during which the child does not physically resist or a therapeutic hold for a child who is 8 years of age or younger for less than 10 minutes during which the child does not physically resist.

Manual restraints include but are not limited to:

- Physically blocking a doorway to prevent child egress
- Holding a child's hands to prevent movement
- Placing of hands on a child's shoulders to prevent the child from standing
- Employing any hold, such as a basket-hold, that restricts child movement.

On December 19, 2009, the Department issued PA bulletin 3800-09-02, prohibiting the use of any type of prone restraint under § 3800.211(b). For a copy of this bulletin, please contact BHSL's Operator Support Hotline.

**Inspection Procedures:** Inspectors will review child records, interview staff, and observe children during the course of the inspection. If restrictive procedures are identified, inspectors may contact the regional office with any questions about restraint use.

**Primary Benefit:** Reduces chance of child injury or death by the use of manual restraints. Protects children's rights to be treated with dignity and respect, and to be served in the least-restrictive setting possible.

**211c**

3800.211(c) – Prone position manual restraints are not permitted for girls who are pregnant.

**Discussion:** Prone restraints are those in which restrainers are sitting and/or laying on top of the child. Restraining a child in a face down position is likely to cause greater restriction of breathing.

**Inspection Procedures:** Inspectors will review child records, interview staff, and observe children during the course of the inspection. If restrictive procedures are identified, inspectors may contact the regional office with any questions about restraint use.

**Primary Benefit:** Reduces chance of child injury, death, or harm to the fetus by the use of manual restraints. Protects children's rights to be treated with dignity and respect, and to be served in the least-restrictive setting possible.

**211d**

3800.211(d) – The position of the manual restraint or the staff person applying a manual restraint shall be changed at least every 10-consecutive minutes of applying the manual restraint.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review child records, interview staff, and observe children during the course of the inspection. If restrictive procedures are identified, inspectors may contact the regional office with any questions about restraint use.

**Primary Benefit:** Reduces chance of child injury or death by the use of manual restraints.

**211e**

3800.211(e) – A staff person who is not applying the restraint shall observe and document the physical and emotional condition of the child, at least every 10 minutes the manual restraint is applied.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review child records, interview staff, and observe children during the course of the inspection. If restrictive procedures are identified, inspectors may contact the regional office with any questions about restraint use.

**Primary Benefit:** Reduces chance of child injury or death by the use of manual restraints.

### Exclusion

<b>212b</b>	3800.212(b) – Exclusion may not be used for more than 60 minutes, consecutive or otherwise, within a 2-hour period.
<b>212c</b>	3800.212(c) – Exclusion may not be used for a child more than 4 times within a 24-hour period.
<b>212d</b>	3800.212(d) – A staff person shall observe a child in exclusion at least every 5 minutes.
<b>212e</b>	3800.212(e) – A room or area used for exclusion shall have the following: (1) At least 40 square feet of indoor floor space. (2) A minimum ceiling height of 7 feet. (3) An open door or a window for observation. (4) Lighting and ventilation. (5) Absence of any items that might injure a child.

**Discussion:** Self-explanatory.

Please see “Restrictive Procedures” in “Regulatory Issues and Frequently-Occurring Situations” for more information.

**Inspection Procedures:** Inspectors will review child records, interview staff, and observe children during the course of the inspection. If restrictive procedures are identified, inspectors may contact the regional office with any questions about restraint use.

**Primary Benefit:** Ensures that children do not experience alienation or negative mental health effects of excessive exclusion.

## Restrictive Procedure Records

213

3800.213 - A record of each use of a restrictive procedure, including the emergency use of a restrictive procedure, shall be kept and shall include the following:

- (1) The specific behavior addressed.
- (2) The methods of intervention used to address the behavior less intrusive than the procedure used.
- (3) The date and time the procedure was used.
- (4) The specific procedure used.
- (5) The staff person who used the procedure.
- (6) The duration of the procedure.
- (7) The staff person who observed the child.
- (8) The child's condition following the removal of the procedure.

**Discussion:** Pursuant to § 3800.204, a restrictive procedures plan does not need to be developed until after any type of restrictive procedure is used four times for the same child in any 3-month period. However, any time a restrictive procedure is used, regardless of whether its use is anticipated or otherwise, the information required by this regulation must be recorded.

### Documenting Restrictive Procedure Use

Each instance of restrictive procedure use must be documented. This documentation is separate and distinct from the restrictive procedure plan and the ISP. While the documentation of restrictive procedure use may be kept in a single log, child-specific documentation must also be kept in the child's record pursuant to § 3800.243(7). Each record of restrictive procedure use must include, at a minimum:

- The specific behavior addressed.
- The methods of intervention used to address the behavior less intrusive than the procedure used.
- The date and time the procedure was used.
- The specific procedure used.
- The staff person who used the procedure.
- The duration of the procedure.
- The staff person who observed the child.
- The child's condition following the removal of the procedure.

**Inspection Procedures:** Inspectors will review child records to verify that all of the content required by this regulation is captured; a restrictive procedure plan was developed, if appropriate; and that restrictive procedure use did not violate any regulations relating to such use.

**Primary Benefit:** Ensures that restrictive procedures are used appropriately and in accordance with regulatory requirements.

# SERVICES

## Description of Services

<b>221</b>	3800.221 - The facility shall have a written description of services that the facility provides to include the following: (1) The scope and general description of the services provided by the facility. (2) The ages, needs and any special characteristics of the children the facility serves. (3) Specific activities and programs provided by the facility.
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**Discussion:** Compliance with this regulation is critical to ensuring that facilities serve only those children whose needs can be met in the facility. Facilities must be very careful about admitting children who have dangerous behaviors, who need extensive medical care, or who have personal care/supervision needs that require additional staffing.

Remember that a facility is obligated to provide the services, activities, and programs described in the written description, so descriptions should be very specific.

“The ages, needs and any special characteristics of the children” means the physical, social, and behavioral needs that the facility can and cannot meet. These criteria are among the most important standards a facility can develop, as facilities who admit children that cannot be safely served frequently struggle with regulatory compliance. This does not prohibit a facility from admitting a child with specific needs that can be met solely by outside sources.

**Remember – the Department will review the facility’s description of services as part of any investigation of insufficient care or negligence.**

**Inspection Procedures:** Inspectors will review the facility’s Description of Services plan to verify that the plan contains all of the content required by this regulation.

**Primary Benefit:** A comprehensive, specific Description of Services plan defers families, placing agencies, and other referral sources from seeking admission to a facility that cannot meet the need of the child, and protects facilities from admitting a child who the facility cannot serve safely. It also clarifies exactly what the facility will and will not do which limits disputes about the facility’s responsibilities in the event of discharge or denied admission.

**Exceptions:** Regulation § 3800.221 does not apply to secure detention facilities (as per § 3800.282).

## Admission

<b>222</b>	3800.222 - Prior to admission, a determination shall be made and documented in writing, that the age, needs and any special characteristics of the child can be appropriately met by the services, activities and programs provided by the facility.
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**Discussion:** The screening and determination includes safety needs (such as staffing, fire safety) and health needs (such as medication administration). Admission should be based on the program of services provided by the facility, as specified in § 3800.221, and the placement process required by § 3800.223 should reflect the relationship between § 3800.221 and § 3800.222.

This screening may be completed on the day of admission, as long as it is prior to admission. It is recommended that screenings are completed no more than 30 days prior to admission to assure that a child’s needs do not significantly change between the initial screening and the date of admission.

It is recommended that facilities interview each child, in person, before making a determination that their needs can be met in the facility.

**Inspection Procedures:** Inspectors will review child records to determine if the facility is in compliance with the regulation.

**Primary Benefit:** Ensures that the facility can safely meet a child's needs prior to admission.

**Exceptions:** Regulation § 3800.222 does not apply to secure detention facilities (as per § 3800.282).

### Placement Process

**223**

3800.223 - The facility shall have a placement process that assesses, and documents the following for each child, prior to or upon admission:

- (1) The service needs of the child.
- (2) The child's legal status.
- (3) Circumstances that make placement of the child necessary.
- (4) How the activities and services provided by the facility will meet the needs of the child.

**Discussion:** The screening and determination includes safety needs (such as staffing, fire safety) and health needs (such as medication administration). Admission should be based on the program of services provided by the facility, as specified in § 3800.221, and the placement process required by § 3800.223 should reflect the relationship between § 3800.221 and § 3800.222.

**Inspection Procedures:** Inspectors will review resident records to determine if the home is in compliance with the regulation.

**Primary Benefit:** Ensures that the facility can safely meet a child's needs prior to admission, and that the services the facility provides will benefit the child.

**Exceptions:** Regulation § 3800.223 does not apply to secure detention facilities (as per § 3800.282).

### Development of the ISP

**224a**

3800.224(a) - An ISP shall be developed for each child within 30 calendar days of the child's admission.

**Discussion:** An ISP, or Individual Service Plan, is a written document for each child describing the child's care and treatment needs. The ISP, in conjunction with the child health and safety assessment, health and safety plan, and medical examinations, serves as the foundation for all care and services provided to the child.

**Inspection Procedures:** Inspectors will review child ISPs to verify that ISPs were developed within the required timeframes.

**Primary Benefit:** Ensures that each child's needs are met and that accountability for meeting those needs is firmly established.

**Exceptions:** Regulation § 3800.224 does not apply to secure detention facilities (as per § 3800.282).

**224b**

3800.224(b) - The ISP shall be developed by the child, the child's parent and, if applicable, the child's guardian or custodian, if available, any person invited by the child and the child's parent, guardian or custodian, child care staff persons, a contracting agency representative and other appropriate professionals.

**Discussion:** In order to ensure that a child's ISP is as targeted to the child's needs and goals as possible, it should be developed, reviewed, and revised with the child and as many formal and informal supports as possible.

**Inspection Procedures:** Inspectors will review child ISPs to verify that ISPs were developed with the child, informal supports, and formal supports, to the degree possible.

**Primary Benefit:** Having a child and their responsible parties participate in the development of the ISP helps to provide crucial detailed information about the specific child which can assist the facility in developing a specific plan as to how it will meet the needs of the child.



**Exceptions:** Regulation § 3800.224 does not apply to secure detention facilities (as per § 3800.282).

**224c**

3800.224(c) - Reasonable effort shall be made to involve the child and the child's parent and, if applicable, a guardian or custodian, in the development of the ISP at a time and location convenient for the child, the child's parent, the child's guardian or custodian, if applicable, and the facility.

**Discussion:** "Reasonable effort" to include children's parents and guardians must be decided on a case-by-case basis; if it is impossible for a child's parents to participate, then the basis for their inability to participate should be documented. If a child's parents are able to and desire to participate, the facility should make every effort to schedule ISP meetings such that parents can attend. However, scheduling should ultimately surround the most critical participants in ISP development. For example, if a child's contracting agency representative absolutely must participate for the child's long-term health and well-being, but the representative can only participate at a certain time, the facility must schedule the ISP meeting to accommodate the representative. In short, participation and scheduling is dictated by the best interests of the child. Thorough documentation of this process is required, as participant information is an integral part of establishing goals and outcomes.

**Inspection Procedures:** Inspectors will review child records to determine if the facility is in compliance with the regulation.

**Primary Benefit:** Having a child and their responsible parties participate in the development of the ISP helps to provide crucial detailed information about the specific child which can assist the facility in developing a specific plan as to how it will meet the needs of the child.

**Exceptions:** Regulation § 3800.224 does not apply to secure detention facilities (as per § 3800.282).

**224d**

3800.224(d) - Documentation of reasonable efforts made to involve the child's parent and, if applicable, guardian or custodian, shall be kept.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review child records to determine if the facility is in compliance with the regulation.

**Primary Benefit:** Having a child and their responsible parties participate in the development of the ISP helps to provide crucial detailed information about the specific child which can assist the facility in developing a specific plan as to how it will meet the needs of the child.

**Exceptions:** Regulation § 3800.224 does not apply to secure detention facilities (as per § 3800.282).

**224e**

3800.224(e) - Persons who participated in the development of the ISP shall sign and date the ISP, with the exception of the child, the child's parent and, if applicable, the child's guardian or custodian, who shall be given the opportunity to sign the ISP.

**Discussion:** The requirement to "sign and date" the ISP does not necessarily mean that an actual ink signature is required on paper forms. The ISP must clearly document who participated in the development and revision, and how they participated (by phone, webcam, etc.) If necessary, the Department will make collateral contacts with participants to verify that actual participation occurred.

**Inspection Procedures:** Inspectors will review child ISPs to verify that participation in ISP development was properly documented.

**Primary Benefit:** Having individuals who participate in the development of the ISP sign and date the ISP provides a record of who participated in the development of the ISP for future reference purposes.

**Exceptions:** Regulation § 3800.224 does not apply to secure detention facilities (as per § 3800.282).

### Review and Revision of the ISP

**225a**

3800.225(a) - A review of each child's progress on the ISP, and a revision of the ISP if necessary, shall be completed at least every 6 months.

**Discussion:** If a review of the child's ISP is completed, but no revision is necessary, the facility must be able to demonstrate who completed the review and the date the review was done. It is recommended that the facility review the ISP in accordance with § 3800.224(b)-(e), even if a revision is not needed to the ISP.

**Inspection Procedures:** Inspectors will review child ISPs to verify that ISPs were reviewed and revised within the required timeframes.

**Primary Benefit:** Ensures that each child's needs are met as those needs change, and that accountability for meeting those needs is firmly established.

**Exceptions:** Regulation § 3800.225 does not apply to secure detention facilities (as per § 3800.282).

**225b**

3800.225(b) - The ISP shall be revised in accordance with subsection (a) if there has been no progress on a goal, if a goal is no longer appropriate or if a goal needs to be added.

**225c**

3800.225(c) - A review and revision of the ISP shall be completed in accordance with § 3800.224 (b)—(e) (relating to development of the ISP).

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review child ISPs to verify that ISPs are developed, reviewed, and revised within the required timeframes; the ISP was developed with the child, informal supports, and formal supports, to the degree possible; the ISP contains all required content; and participation in ISP development was properly documented.

**Primary Benefit:** Ensures that information in the child's ISP is fresh and remains up-to-date according to the child's current needs.

**Exceptions:** Regulation § 3800.225 does not apply to secure detention facilities (as per § 3800.282).

### Content of the ISP

**226**

- 3800.226 - An ISP shall include:
- (1) Measurable and individualized goals and time-limited objectives for the child.
  - (2) Evaluation of the child's skill level for each goal.
  - (3) Monthly documentation of the child's progress on each goal.
  - (4) Services and training that meet the child's needs, including the child's needs for safety, competency development and permanency.
  - (5) A restrictive procedure plan, if appropriate.
  - (6) A component addressing family involvement.
  - (7) A plan to teach the child health and safety, if the child has a child living with him at the facility.
  - (8) A component addressing how the child's educational needs will be met in accordance with applicable Federal and State laws and regulations.
  - (9) The anticipated duration of stay at the facility.
  - (10) A discharge or transfer plan.
  - (11) Methods to be used to measure progress on the ISP, including who is to measure progress and the objective criteria.
  - (12) The name of the person responsible for coordinating the implementation of the ISP.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review child ISPs to verify that ISPs contain all content required by the regulation.

**Primary Benefit:** Ensures that each child's needs are met as those needs change, and that accountability for meeting those needs is firmly established.

**Exceptions:** Regulation § 3800.226 does not apply to secure detention facilities (as per § 3800.282).

### Implementation of the ISP

**227**

3800.227 - An ISP shall be implemented as written.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review child ISPs to verify that the ISP is being properly implemented.

**Primary Benefit:** Ensures that the ISP developed specifically for each child using child-specific information and documentation is implemented for each child so each child gets the necessary services (s)he needs.

**Exceptions:** Regulation § 3800.227 does not apply to secure detention facilities (as per § 3800.282).

### Copies of the ISP

**228a**

3800.228(a) - Copies of the ISPs, revisions to the ISP and monthly documentation of progress shall be provided to the child if the child is over 14 years of age, the parent, the child's guardian or custodian, if applicable, the contracting agency and persons who participated in the development and revisions to the ISP.

**228b**

3800.228(b) - Copies of ISPs, revisions to the ISP and monthly documentation of progress shall be kept in the child's record.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review child records, as well as interview the director, staff, and/or children of the facility to determine if the facility provided a copy of the ISP to the child if the child is over 14 years of age, the parent, the child's guardian or custodian, if applicable.

**Primary Benefit:** Giving a copy of the ISP to the child, parent, guardian or custodian makes the persons aware of the plan showing how the facility will meet the needs of the child identified in the ISP. Ensures that the staff responsible for meeting a child's needs can obtain copies of the child ISPs in child records.

**Exceptions:** Regulation § 3800.228 does not apply to secure detention facilities (as per § 3800.282).

### Education

229

3800.229 - Under 22 Pa. Code Chapters 11, 14 and 15 (relating to student attendance; special education services and programs; and protected handicapped students), each child who is of compulsory school age shall participate in a Department of Education-approved school program or an educational program under contract with the local public school district.

**Discussion:** Children must participate in a school program as appropriate based on age, adjudication, etc.

A child should be educated in the "least-restrictive" setting. Generally speaking, this means the child would attend public school unless there is a legitimate reason making such educational placement unwise for the child or otherwise improper. If the Bureau of Human Services Licensing suspects that a child at a facility did not receive the opportunity to be provided with education in the least restrictive setting, BHSL will make a referral to the Department of Education for further action regarding compliance with the Public School Code.

**Inspection Procedures:** Inspectors will interview the director, staff and/or children, as well as review child records for each child who is of compulsory school age to determine if the child participates in Department of Education-approved school program or an educational program under contract with the local public school district.

**Primary Benefit:** Ensures that children in residential and day-treatment settings continue to receive educational services.

### Transfer or Discharge

230

3800.230 - Prior to the transfer or discharge of a child, the facility shall inform, and when possible discuss with, the child's parent and, if applicable, the child's guardian or custodian, the recommended transfer or discharge. Documentation of the discussion or transmission of the information shall be kept.

**Discussion:** If the child is discharged in an unplanned manner (i.e. hospitalization, emergency removal, runaway, arrest, etc.), the facility should notify the parties described in regulation of the child's location as soon as reasonably possible.

**Inspection Procedures:** Inspectors will review the record of a discharged child to verify that parents, guardians, and custodians were informed of the discharge.

**Primary Benefit:** Ensures that family members are apprised of the child's whereabouts and the basis for a change in locus of care.

# CHILD RECORDS

## Emergency Information

**241a**

3800.241(a) - Emergency information for children shall be easily accessible at the facility.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review child records to ensure that emergency information is present and that the facility has a means in place to readily access the information in an emergency situation.

**Primary Benefit:** Ensures that the facility is prepared to respond to emergencies that may require knowledge of emergency information for children in the facility.

**241b**

3800.241(b) - Emergency information for each child shall include the following:

- (1) The name, address, telephone number and relationship of a designated person to be contacted in case of an emergency.
- (2) The name, address and telephone number of the child's physician or source of health care and health insurance information.
- (3) The name, address and telephone number of the person able to give consent for emergency medical treatment, if applicable.
- (4) A copy of the child's most recent health examination.

**Discussion:** Self-explanatory.

**Inspection Procedure:** Inspectors will review child records to ensure that emergency information is present and includes all of the elements required by the regulation. Inspectors will also verify that a means to readily access the information, including in an emergency situation, exist.

**Primary Benefit:** Ensures that the facility is prepared to respond to emergencies that may require knowledge of emergency information for children in the facility. Having a child's emergency information readily available is beneficial for emergency medical personnel and other emergency service workers so they can provide immediate and direct access to medical care and treatment for serious injury, illness or both.

## Child Records

242a

3800.242(a) - A separate record shall be kept for each child.

**Discussion:** Electronic documents are acceptable instead of paper copies if all of the following conditions are met:

- Documents stored are in PDF format or some other permanent storage to prevent alteration of the document.
- Printed copies of electronic records are promptly available to licensing staff.
- Documents that existed originally in paper form are scanned to make an electronic record and the original paper record shall be available for one licensing cycle.
- Electronic database is reasonably secure and accessible by password.

**Inspection Procedures:** Inspectors will review the facility's child records to determine that there is a separate record kept for each child.

**Primary Benefit:** Separate records for each child ensures that services and care for each child is child-specific and easily accessible.

242b

3800.242(b) - Entries in a child's record shall be legible, dated and signed by the person making the entry.

**Discussion:** The entries referred to in this regulation include all of the items at § 3800.243, progress or nursing notes, and any other written documentation relating to a child.

It is recommended that entries into a child records be "permanent", such that they cannot be erased or covered with correction fluid/tape. A line should be drawn through errors or changes such that the original entry is still legible.

Staff initials are permitted if there is a key that includes the full name, title, and signature of the staff person.

**Inspection Procedures:** Inspectors will review the facility's child records to determine if all entries made are legible, dated and signed by the staff person making the entry.

**Primary Benefit:** Making entries in a child's record that are legible, dated, and signed by the staff person making the entry helps to ensure that information stored in the child record is detailed, accurate, and unaltered.

### Content of Records

243

3800.243 - Each child's record shall include:

- (1) Personal information including:
  - (i) The name, sex, admission date, birth date and Social Security Number.
  - (ii) The race, height, weight, color of hair, color of eyes and identifying marks.
  - (iii) The dated photograph of the child taken within the past year.
  - (iv) Language or means of communication spoken and understood by the child and the primary language used by the child's family, if other than English.
  - (v) Religious affiliation.
  - (vi) The name, address and telephone number of the person to be contacted in the event of an emergency.
- (2) Health records.
- (3) Dental, vision and hearing records.
- (4) Health and safety assessments.
- (5) ISPs.
- (6) Restrictive procedure plans.
- (7) Restrictive procedure records relating to the child.
- (8) Reports of reportable incidents.
- (9) Consent to treatment, as specified in § 3800.19 (relating to consent to treatment).
- (10) Court order, if applicable.
- (11) Admission and placement information specified in § § 3800.222 and 3800.223 (relating to description of services; and admission).
- (12) Signed notification of rights, grievance procedures and applicable consent to treatment protections specified in § 3800.31 (relating to notification of rights).
- (13) Service records of the contracting agency.
- (14) Education records.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review the facility's child records to determine if the required documentation is present.

**Primary Benefit:** Having a complete record for each child gives the facility the best possible picture of who the child is, what the child's history is, and what services or needs the child may have.

### Record Retention

244a

3800.244(a) - Information in the child's record shall be kept for at least 4 years or until any audit or litigation is resolved.

**Discussion:** This regulation applies to child records for children that are currently residing at the facility. For record retention related to children that have been discharged, see § 3800.244(b).

**Inspection Procedures:** Inspectors will verify that record content is retained for at least four years.

**Primary Benefit:** A record may be requested and/or needed by an individual or organization relating to an audit or litigation.

244b

3800.244(b) A child's record shall be kept for at least 4 years following the child's departure or until any audit or litigation is resolved.

**Discussion:** There is nothing that prohibits a home from "thinning" a record before the 4 year timeframe as long as the information that is removed from the active record is retained in a manner that it is promptly available to licensing staff and other individuals that have permission to view the record in accordance with confidentiality laws.

Records that are destroyed must be done so in a manner that protects confidentiality in accordance with § 3800.20.

**Inspection Procedures:** Inspectors will verify that record content is retained for at least four years.

**Primary Benefit:** A record may be requested and/or needed by an individual or organization relating to an audit or litigation.

### Locked Records

245

3800.245 - A child's record shall be kept in a locked location when unattended.

**Discussion:** A record is "unattended" when it is not in direct use or direct eye-sight of a staff person. This regulation applies to any document that contains child-specific information.

**Inspection Procedures:** Inspectors will verify that child records are kept locked at all times when unattended.

**Primary Benefit:** Storing child records in a secure manner helps to protect the security and privacy of a child's health information.



# FACILITIES SERVING NINE OR MORE CHILDREN

## Sewage System Approval

<b>252</b>	3800.252 - A facility that is not connected to a public sewer system shall have a written sanitation approval for its sewage system by the sewage enforcement official of the municipality in which the facility is located.
<p><b>Discussion:</b> This applies to facilities on private wells, even if the facilities use bottled water for drinking or have purification systems.</p> <p>If § 3800.252 applies, the duration, frequency, and content of the sanitation approval are governed by the municipal authority, not by the Department.</p> <p>It is possible that a facility's local sewage enforcement official will not give written approval for a sewage system that was installed without his/her participation in the construction and testing. In this case, it is important for the facility to work closely with the sewage enforcement official and the Department of Environmental Protection to establish a plan for coming into compliance with this regulation. Facilities are encouraged to contact the Department for guidance as well.</p> <p><b>Inspection Procedures:</b> Inspectors will determine if the facility has non-public water (i.e, well water and a septic tank), as well as if the facility has a capacity of nine or more children. If the facility has non-public water but has a capacity of eight or less, inspectors will verify that coliform water tests have been performed every three months since the last inspection by a certified laboratory. If the facility has non-public water and has a capacity of nine or more, inspectors will verify that coliform water tests have been performed every three months since the last inspection by a certified laboratory, AND that the facility has written approval for its sanitation system.</p> <p><b>Primary Benefit:</b> Ensures that water in facilities with private water sources is safe for use, and, if applicable, that the sewage system is properly designed and installed so as to minimize the spread of disease and damage to the environment or to the facility.</p> <p><b>Exceptions:</b> Regulation § 3800.252 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.252 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).</p>	

<b>253</b>	3800.253 - Written emergency evacuation procedures and an evacuation diagram specifying directions for egress in the event of an emergency shall be posted in a conspicuous place.
<p><b>Discussion:</b> The written emergency evacuation procedures referred to in § 3800.253 are the procedures required by § 3800.123.</p> <p>The evacuation diagram must include a line of travel to exit doors. It is recommended that it also includes the location of the fire extinguishers and pull signals.</p> <p>A "conspicuous" place means that these items are easily seen by staff, children, and visitors.</p> <p>It is recommended that an evacuation diagram be placed in a conspicuous place on each floor of the facility.</p> <p><b>Inspection Procedures:</b> Inspectors will verify that written emergency evacuation procedures and evacuation diagrams show all of the required information, and are posted on each floor during the physical site inspection.</p> <p><b>Primary Benefit:</b> Large facilities usually have more exits and more people who use them. Evacuation diagrams aid rapid evacuation in the event of an emergency.</p> <p><b>Exceptions:</b> Regulation § 3800.253 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.253 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).</p>	

## Exit Signs

254a

3800.254(a) - Signs bearing the word "EXIT" in plain legible letters shall be placed at exits.

**Discussion:** These regulations do not require "EXIT" signs to be illuminated, but local building codes may require illumination. Facilities should check with their local building authority to learn if illuminated signs are required.

**Inspection Procedures:** Inspectors will check each exit door during the physical site inspection and verify that an exit sign is posted at the door.

**Primary Benefit:** Large facilities usually have more exits and more people who use them. Exit signs aid rapid evacuation in the event of an emergency.

**Exceptions:** Regulation § 3800.254 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.254 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

254b

3800.254(b) - If the exit or way to reach the exit is not immediately visible, access to exits shall be marked with readily visible signs indicating the direction of travel.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will check the access routes to each exit not immediately visible during the physical site inspection to verify that signs indicating the direction to travel are present.

**Primary Benefit:** Large facilities usually have more exits and more people who use them. Exit signs aid rapid evacuation in the event of an emergency.

**Exceptions:** Regulation § 3800.254 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.254 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

254c

3800.254(c) - Exit sign letters shall be at least 6 inches in height with the principal strokes of letters at least 3/4 inch wide.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will check each exit door during the physical site inspection and verify that the posted exit sign meets the height and width requirements.

**Primary Benefit:** Signage may be obscured by smoke during fires. Large lettering helps people locate exit doors.

**Exceptions:** Regulation § 3800.254 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.254 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

### Laundry

<b>255a</b>	3800.255(a) - There shall be a laundry area which is separate from kitchen, dining and other living areas.
<b>255b</b>	3800.255(b) - Soiled linen shall be covered while being transported through food preparation and food storage areas.

**Discussion:** The more children served in a facility, the greater the volume of soiled linen produced. Serving a smaller population allows kitchen and dining areas to serve multiple purposes without the risk of contaminating food or dining surfaces. Larger populations require more frequent laundry cycles.

**Inspection Procedures:** Inspectors will examine laundry areas in the facility and verify that they are separate from kitchen, dining and other living areas. Inspectors may also interview staff regarding soiled linens being transported through the facility.

**Primary Benefit:** Ensures that sanitary conditions are maintained.

**Exceptions:** Regulation § 3800.255 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.255 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.255 does not apply to day treatment facilities (as per § 3800.311).

### Dishwashing

<b>256a</b>	3800.256(a) - Utensils used for eating, drinking, preparation and serving of food or drink shall be washed, rinsed and sanitized after each use by a mechanical dishwasher or by a method approved by the Department of Agriculture.
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**Discussion:** The “method approved by the Department of Agriculture” is set forth at 7 Pa.Code § 46.715(c)(1), which requires that utensils be “effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary, such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices”.

Durable plates, cups, and utensils must be washed after each use. Disposable plates, cups, and utensils must be disposed of after each use.

**Inspection Procedures:** Inspectors will examine the kitchen areas and interview staff to determine if the facility is washing, rinsing and sanitizing utensils using a method approved by the Department of Agriculture.

**Primary Benefit:** Ensures that utensils are appropriately cleaned to prevent the spread of disease in larger settings.

**Exceptions:** Regulation § 3800.256 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.256 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

<b>256b</b>	3800.256(b) - A mechanical dishwasher shall use hot water temperatures exceeding 140°F in the wash cycle and 180°F in the final rinse cycle or shall be of a chemical sanitizing type approved by the National Sanitation Foundation.
<b>256c</b>	3800.256(c) - A mechanical dishwasher shall be operated in accordance with the manufacturer's instructions.

**Discussion:** Commercial and residential mechanical dishwashers that meet National Sanitation Foundation (NSF) approval standards may be found on the NSF's internet website.

**Inspection Procedures:** Inspectors will examine the dishwasher in kitchen areas and interview the director and staff to determine if the facility is using hot water to clean utensils and dishes at the appropriate temperature as per the regulation. Inspectors may also review the facility's mechanical dishwasher manufacturer's instructions to determine if the facility is operating it accordingly.

**Primary Benefit:** Ensures that utensils are appropriately cleaned to prevent the spread of disease in larger settings.

**Exceptions:** Regulation § 3800.256 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.256 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302).

### Bedrooms

257

3800.257 - A child's bedroom may not be more than 200 feet from a bathtub or shower and a toilet.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will inspect the facility's physical site to determine if child bedrooms are more than 200 feet from a bathtub or shower and a toilet.

**Primary Benefit:** Ensures that children in larger facilities do not have to travel unreasonable distances to void or bathe.

**Exceptions:** Regulation § 3800.257 does not apply to outdoor and mobile programs that operate from nonstationary settings (as per § 3800.302). Regulation § 3800.257 does not apply to outdoor and mobile programs that operate from stationary settings such as tepees and cabins (as per § 3800.302). Regulation § 3800.257 does not apply to day treatment facilities (as per § 3800.311).

# SECURE CARE

## Criteria

<b>271</b>	3800.271 - Secure care is permitted only for children who are alleged delinquent, or adjudicated delinquent and court ordered to a secure facility.
<p><b>Discussion:</b> Self-explanatory.</p> <p><b>Inspection Procedures:</b> For facilities that offer secure care, inspectors will review child records to determine that each child in a secure care facility is alleged delinquent, or adjudicated delinquent and court ordered to a secure facility.</p> <p><b>Primary Benefit:</b> Ensures that all children served in a secure care facility are mandated to be there.</p>	

## Admission to Secure Care

<b>272</b>	3800.272 - Prior to accepting a child in secure care, the facility shall request the following documents from the committing court: <ol style="list-style-type: none"> <li>(1) A description of the offenses and circumstances that make secure care necessary.</li> <li>(2) The child's needs to be addressed during placement.</li> <li>(3) The court order committing the child to a secure care facility.</li> </ol>
<p><b>Discussion:</b> If the facility has attempted to obtain a description of the offenses and circumstances that make secure care necessary and/or a document describing the child's needs to be addressed during placement but the court has not provided them, the facility must be able to demonstrate that the documents were requested but not provided. The court order is required prior to admission, as secure care facilities may only serve children who are alleged or adjudicated delinquent.</p> <p><b>Inspection Procedures:</b> Inspectors will review the child records to verify that the required documents are present.</p> <p><b>Primary Benefit:</b> Provides the facility with a basic understanding of the child's offenses and special needs, as well as verifies that the court has ordered a secure setting.</p>	

### Additional Requirements

**274(1)**

3800.274(1) - The facility shall have a valid fire safety occupancy approval appropriate for locked facilities from the appropriate authority, listing the type of occupancy, prior to receiving a certificate of compliance.

**Discussion:** For the purposes of licensing, the terms “fire safety approval” and “certificate of occupancy” are equivalent. A certificate of occupancy is a document verifying that a building is in compliance with building codes and other laws and is safe for human occupation.

Most facilities licensed under Chapter 3800 must have a certificate of occupancy. If a facility does not have a certificate of occupancy and is unsure if they need one, the facility should contact its local building code authority or the Department of Labor and Industry for guidance. If a certificate of occupancy is not required, it is strongly recommended that facilities obtain written verification of such from the local building code authority or the Department of Labor and Industry.

**Maximum Capacity** - Each facility's maximum capacity (also known as licensed capacity) is listed on the facility's license to operate. The maximum capacity is determined by the square footage, showers, sinks, and toilets. Occasionally, the facility's certificate of occupancy will dictate the maximum number of persons who can be served in the facility based on the building's construction; for example, facilities classified as C-3 may not serve more than 8 persons. “Maximum capacity” and “Certificate of Occupancy capacity” are not the same things! The former is determined by the Department by compliance with licensing measurements, the latter is determined by the building authority based on the facility's construction. Since both are legal limitations on the number of persons who may be served, facilities must always consider the lower of the two capacities the total number of children who may be served in the facility.

A C-5 or I-3 occupancy are generally considered acceptable use codes for secure care. A C-1 occupancy issued by the Department of Labor and Industry prior to 1984 is the equivalent of a C-5 and is acceptable as long as no renovations that would require a new Certificate of Occupancy were completed since its issuance.

See also § 3800.14.

**Inspection Procedures:** Inspectors will review and obtain a copy of the facility's certificate of occupancy during the inspection.

**Primary Benefit:** Ensures that the facility is appropriately constructed to serve children in a secure setting.

**274(3)**

3800.274(3) - Children shall be directly supervised at all times during awake hours.

**Discussion:** “Directly supervised” usually means “within visual or auditory contact with children.”

**Inspection Procedures:** Inspectors will review staff schedules, as well as interview the director, staff and/or children to verify that children are directly supervised at all times during awake hours.

**Primary Benefit:** Ensures that children have appropriate supervision during times that the children are awake.

**274(4)**

3800.274(4) - A minimum of two child care workers shall be present in the facility at all times.

**Discussion:** “Present in the facility” means physically present on the premises of each licensed facility. For example, if 3 facilities on the same grounds serve 16 or more children, then a child care supervisor must be present in each facility whenever there are 16 or more children present.

**Inspection Procedures:** Inspectors will review staff schedules, as well as interview the director, staff and/or children to verify that there are a minimum of two child care workers present in the facility at all times.

**Primary Benefit:** Ensures that children have appropriate supervision at all times that they are in the facility, as well as ensures that there is enough staff to respond to emergency situations.

<b>274(5)</b>	3800.274(5) - There shall be one child care worker present with the children for every six children during awake hours.
<b>274(6)</b>	3800.274(6) - There shall be one child care worker present with the children for every 12 children during sleeping hours.

**Discussion:** “Present with the children” usually means “within visual or auditory range.” In general, staff that are unable to see and/or hear children while on break or while performing ancillary duties may not be counted in the staff-to-child ratios.

When calculating ratios...

- SUBTRACT any child care workers who sleep on duty from the total number of available workers
- SUBTRACT any child care worker who serves as a certified lifeguard when measuring ratios during swimming periods

Remember:

- If one or more children are in the facility, these ratios apply.
- If no children are present in the facility but may return at any time, a staff person(s) must be present.
- If no children are present in the facility and will not return until an appointed time (for example, if all children attend public school), a child care worker does not need to be physically present in the facility, but sufficient staffing must be immediately available at any time the children return to the facility. If this scenario may occur in a facility, it is recommended that the facility develop a plan to staff the facility in the event of a child’s unexpected return.
- The 15-minute observational checks must be conducted in-person; video or remote monitoring is not sufficient for regulatory compliance.

There are no requirements that specific children be “assigned” to specific staff for checking or supervising, or that hourly checks be documented. However, facilities must have a system in place to ensure that all children are accounted for and to verify that the checks actually occur.

The staffing requirements required by the above regulations are the minimum allowable staff ratios for regulatory compliance. Additional staff may need to be provided or additional checks may need to be completed based on the needs identified in a child’s safety plan or individual service plan. Examples of needs that may necessitate additional staffing include:

- Hands-on assistance to ambulate or evacuate from one or more persons
- 24-hour direct supervision
- An acute medical condition that requires special treatment or observation

**Inspection Procedures:** Inspectors will review staff schedules, as well as interview the director, staff and/or children to verify that the facility is meeting necessary child ratios as per the regulation.

**Primary Benefit:** Ensures that children have appropriate supervision at all times that they are in the facility, as well as ensures that there is enough staff to respond to emergency situations.

<b>274(7)</b>	3800.274(7) - Children shall be supervised by conducting observational checks of each child within 15 minute intervals during sleeping hours.
<b>274(8)</b>	3800.274(8) - Observational checks of children during sleeping hours shall include actual viewing of each child.
<b>274(9)</b>	3800.274(9) - Observational checks of children during sleeping hours shall be recorded in writing noting the date, time, person making the check and any unusual circumstances observed.

**Discussion:** “Sleeping hours” will be established by the facility.

**Inspection Procedures:** Inspectors will review staff schedules, as well as interview the director, staff and/or children to verify that the facility is conducting and documenting observational checks as per the regulations.

**Primary Benefit:** Ensures that children remain safe in the facility.

<b>274(10)</b>	3800.274(10) - The driver and at least one additional staff person shall be present in the vehicle at all times one or more children are being transported. There shall be one child care worker present with the children for every three children during transportation of children either by the facility or another transportation source. The driver of the vehicle may not be counted in the staffing ratio.
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**Discussion:** The table below shows the number of child care workers required when transporting children.

Number of Children	Child Care Workers (EXCLUDING DRIVER)
1-3	1
4-6	2
7-9	3
10-12	4
13-15	5
16-18	6
19-21	7
22-24	8

**Inspection Procedures:** If the facility provides transportation services and staff transports children, inspectors will review staff schedules to verify child ratios.

**Primary Benefit:** Ensures that children will be transported by an appropriate amount of facility staff to ensure that the vehicle is operated properly, as well as respond to any emergency situations that may arise.

<b>274(11)</b>	3800.274(11) - No more than two children may share a bedroom.
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**Discussion:** Self-explanatory.

See also §§ 3800.102(a), (b), (d), (e), (k).

**Inspection Procedures:** Inspectors will observe child bedrooms to verify that no more than two children share a bedroom.

**Primary Benefit:** Provides sufficient space to ambulate in the event of an emergency, offers children a dignified amount of personal living space, and reduces the spread of communicable diseases.

<b>274(12)</b>	3800.274(12) - Glass windows, windows in doors, shower doors and light fixtures and other glass surfaces shall be protected with a secure, nonbreakable covering or composed of shatterproof glass.
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<b>274(13)</b>	3800.274(13) – Glass mirrors are not permitted.
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**Discussion:** Self-explanatory.

See also §§ 3800.92, 103.

**Inspection Procedures:** Inspectors will inspect the facility’s physical site to determine that any glass windows, windows in doors, shower doors and light fixtures and other glass surfaces are protected with a secure, nonbreakable covering or composed of shatterproof glass. Inspectors will also verify that glass mirrors are not present in the facility.

**Primary Benefit:** Non-breakable coverings and shatterproof glass prevent children from eloping from the facility or using broken glass as a weapon.



<b>274(14)</b>	3800.274(14) - Furnishings or other items such as drapery cords, electrical outlets, shower curtains, shoe strings, razors and noncollapsing clothing hooks, that may create a risk for self-injury or suicide may not be accessible to a child whose health and safety assessment specified in § 3800.141 (relating to child health and safety assessment) indicates known or suspected suicide or self-injury attempts or gestures or an emotional history which may indicate a predisposition to self-injury or suicide, except during specific activities while these items are in use and the child is under direct supervision by staff persons.
<b>274(15)</b>	3800.274(15) - Items such as knives, razors, matches and tools, that may create an opportunity for use as a weapon or tool in an assault or other violent behavior may not be accessible to a child whose health and safety assessment specified in § 3800.141 indicates known incidents of aggressive or violent behavior, except during specific activities while these items are in use and the child is under direct supervision by staff persons.

**Discussion:** Items that may be used for harming self or others or otherwise misused must be inaccessible to children who may misuse them. Such objects include those that may reasonably be considered harmful, such as knives, and objects that are known to be misused by a given child. For example, if a child has a history of using chairs as weapons, the facility must take appropriate precautions to prevent the child from misusing a chair.

**Inspection Procedures:** Inspectors will

**Primary Benefit:** Furniture and equipment that is free of hazards helps to maintain sanitary conditions in the facility and minimize the risk that children will suffer an injury while using the furniture or equipment. Ensures child safety as items that may create an opportunity for use as a weapon or tool in an assault or other violent behavior will not be accessible to children with identified at-risk behaviors.

<b>274(16)</b>	<p>3800.274(16) - The following requirements apply to the use of mechanical restraints:</p> <ul style="list-style-type: none"> <li>(i) Handcuffs behind the back, leg restraints and locking transportation waist belts with handcuffs in front of the child used during transportation, are the only types of mechanical restraints that are permitted.</li> <li>(ii) A child may not be handcuffed to an object or another person.</li> <li>(iii) Oral or written authorization by supervisory staff is required prior to each use of a mechanical restraint, except for those restraints used during transportation.</li> <li>(iv) The use of handcuffs or leg restraints, except for those used during transportation, may not exceed 2 hours, unless a licensed physician, a licensed physician's assistant or registered nurse examines the child and gives written orders to continue the use of the restraint. Reexamination and new written orders are required for each 2-hour period the restraint is continued. If a restraint is removed for any purpose other than for movement and reused within 24 hours after the initial use of the restraint, it is considered continuation of the initial restraint.</li> <li>(v) The restraint shall be checked for proper fit by a staff person at least every 15 minutes, except for those used during transportation.</li> <li>(vi) The physical needs of the child shall be met promptly.</li> <li>(vii) Handcuffs and leg restraints, except for those used during transportation, shall be removed completely for at least 10 minutes during every 2 hours the restraint is used.</li> <li>(viii) Handcuffs and leg restraints, except those used during transportation, shall be checked and observed by a supervisory staff person who is not administering the restraint, at least every 1 hour the restraint is used.</li> <li>(ix) The use of handcuffs and leg restraints for any child, except those used during transportation, may not exceed 4 hours in any 48-hour period without a written court order.</li> </ul>
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**Discussion:** Self-explanatory.

**Inspection Procedures:** If the facility is using mechanical restraints, inspectors will review child records and conduct interviews with the director, staff, and/or children to determine if the facility is in compliance with the regulation.

**Primary Benefit:** Ensures that if a restrictive procedure is used, it is being done so properly so as to avoid child injury or death.

<b>274(17)</b>	<p>3800.274(17) - The following requirements apply to the use of seclusion:</p> <ul style="list-style-type: none"> <li>(i) Oral or written authorization by supervisory staff is required prior to each use of seclusion.</li> <li>(ii) The use of seclusion may not exceed 4 hours, unless a licensed physician, a licensed physician's assistant or registered nurse examines the child and gives written orders to continue the use of seclusion. Reexamination and new written orders are required for each 4-hour period the seclusion is continued. If seclusion is interrupted for any purpose and reused within 24 hours after the initial use of seclusion, it is considered continuation of the initial seclusion period.</li> <li>(iii) A staff person shall observe a child in seclusion at least every 5 minutes.</li> <li>(iv) The physical needs of the child shall be met promptly.</li> <li>(v) A child in seclusion shall be checked and observed by a supervisory staff person who is not continually observing the child as required in subparagraph (iii), at least every 2 hours the seclusion is used.</li> <li>(vi) The use of seclusion for any child may not exceed 8 hours in any 48-hour period without a written court order.</li> <li>(vii) A room used for seclusion shall meet the conditions as specified in § 3800.212(e) (relating to exclusion).</li> </ul>
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**Discussion:** Self-explanatory.

**Inspection Procedures:** If the facility is using seclusion, inspectors will review child records and conduct interviews with the director, staff, and/or children to determine if the facility is in compliance with the regulation.

**Primary Benefit:** Ensures that if a restrictive procedure is used, it is being done so properly so as to avoid child injury or death.

<b>274(18)</b>	3800.274(18) - Mechanical restraints and seclusion may not be used simultaneously for any child.
<b>274(19)</b>	3800.274(19) - The use of any combination of mechanical restraints and seclusion for any child may not exceed 6 hours in any 48-hour period without a written court order.

**Discussion:** Self-explanatory.

**Inspection Procedures:** If the facility is using restrictive procedures, inspectors will review child records and conduct interviews with the director, staff, and/or children to determine if the facility is in compliance with the regulation.

**Primary Benefit:** Ensures that if a restrictive procedure is used, it is being done so properly so as to avoid child injury or death.

# SECURE DETENTION

## Additional Requirements

**283(1)**

3800.283(1) - The child care worker shall have an associate's degree or 60 credit hours from an accredited college or university.

**Discussion:** Self-explanatory.

See also §§ 3800.54, 55, 57, 106, 274.

**Inspection Procedures:** Inspectors will review staff records to determine if child care workers have an associate's degree or 60 credit hours from an accredited college or university.

**Primary Benefit:** Ensures that child care workers have the required education to perform job duties specified by the facility.

**283(2)**

3800.283(2) - No more than 12 children may be in a group at any one time.

**Discussion:** There is no single standard for what constitutes a "group." Instead, each situation must be evaluated on a case-by-case basis. In general, the Department will consider four factors when measuring compliance with this regulation:

- The individual needs of the children gathered in a given area;
- The circumstances under which children are collected together;
- The staff assigned to supervise a group of children; and
- The children's proximity to one another.

Each of these factors must be considered together when measuring compliance. For example, children may be gathered together in a large group during a fire drill, but this would not necessarily constitute a violation given the circumstances under which the children are gathered. However, if the facility serves children with very dangerous behaviors, then a plan for conducting fire drills with safe group sizes should be developed as part of the facility's program description.

Nothing prohibits more than one group from being present in the same area provided that adequate precautions are taken to protect all of the children in each group.

See also §§ 3800.54, 55, 57, 106, 274.

**Inspection Procedures:** Inspectors will interview the director, staff and/or children in the facility to determine if no more than 12 children are in a group at any one time. Inspectors may also review the facility's floor plans as well as observe activities at the facility.

**Primary Benefit:** Ensures that groups of children within the facility remain small and more manageable for staff.

**283(3)**

3800.283(3) - No more than 12 children may occupy a sleeping unit or area.

**Discussion:** Self-explanatory.

See also §§ 3800.102, 274(11).

**Inspection Procedures:** Inspectors will observe child bedrooms and verify that no more than twelve children occupy a sleeping unit or area.

**Primary Benefit:** Provides sufficient space to ambulate in the event of an emergency, offers children a dignified amount of personal living space, and reduces the spread of communicable diseases.

<b>283(4)</b>	3800.283(4) - The child health and safety assessment required in § 3800.141 (relating to child health and safety assessment) shall be completed within 1 hour of admission.
<b>283(5)</b>	3800.283(5) - The child health examination as required in § 3800.143 (relating to child health examination) shall be completed within 96 hours after admission.

**Discussion:** It is recommended that children admitted to a secure detention facility have a medical examination within 96 hours *after* admission. This would apply to each admission. Since secure detention facilities are exempt from § 3800.143(b), a medical examination completed prior to admission cannot be accepted.

See also §§ 3800.141-143.

**Inspection Procedures:** Inspectors will review child records to verify that the required documentation was completed by the required timeframes.

**Primary Benefit:** Identifies high-risk behavior(s) and important medical information upon admission. Serves as the basis for a plan to meet any identified needs. Accurate, updated medical information helps facilities decide whether a child's needs can be met at the facility, helps the facility develop accurate assessments plans, and ensures that a child's medical needs will be met.

<b>283(6)</b>	3800.283(6) - The facility shall comply with 42 Pa.C.S. §§ 6301—6365 (relating to the Juvenile Act) related to detention.
<b>283(7)</b>	3800.283(7) - A child may not be admitted to a secure detention facility who is 9 years of age or younger, or who is 18 years of age or older, unless the child is a juvenile as defined in the Juvenile Act.

**Discussion:** Suspected violations of the Juvenile Act will be addressed on a case-by-case basis.

**Inspection Procedures:** Inspectors will review child records to verify that the facility is in compliance with the regulation. Inspectors may also receive direction from the regional office.

**Primary Benefit:** Ensures that children are served in appropriate settings and in accordance with law.

<b>283(8)</b>	3800.283(8) - A child may not remain in the facility longer than is absolutely necessary.
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**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review child records as well as interview the director, staff and/or children in the facility to determine if the facility is in compliance with the regulation. Inspectors may also receive direction from the regional office.

**Primary Benefit:** Ensures that children are being served in the least restrictive setting possible.

<b>283(9)</b>	3800.283(9) - Staff persons shall have visual or auditory contact with children at all times.
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**Discussion:** In general, staff that are unable to see and/or hear children while on break or while performing ancillary duties may not be counted in the staff-to-child ratios.

Remember: The staffing requirements required by the above regulation is the minimum allowable for regulatory compliance. Additional staff may need to be provided based on the needs identified in a child's safety plan or individual service plan. Examples of needs that may necessitate additional staffing include:

- Hands-on assistance to ambulate or evacuate from one or more persons
- 24-hour direct supervision
- An acute medical condition that requires special treatment or observation

See also §§ 3800.54, 55, 57, 106, 274.

**Inspection Procedures:** Inspectors will review staff schedules as well as interview the director, staff and/or children in the facility to determine if the facility is in compliance with the regulation.

**Primary Benefit:** Ensures that sufficient staff are present to supervise and protect children in care.

<b>283(10)</b>	3800.283(10) - Children may not share space or have contact with adult offenders.
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**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review floor plans, as well as interview the director, staff and/or children in the facility to determine if the facility is in compliance with the regulation. Inspectors may also receive direction from the regional office.

**Primary Benefit:** Ensures that while children are in the care of the facility, they remain safe from potential further harm.

<b>283(11)</b>	3800.283(11) - The facility shall submit a written quarterly report to the appropriate regional office of the Department with the following information, for every child detained in a secure detention facility for more than 35 days: (i) The child's name and birth date. (ii) The committing court and probation officer. (iii) The date the petition was filed. (iv) The reason the child is still in the facility.
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**Discussion:** Self-explanatory.

**Inspection Procedures:** If one or more child has been detained for more than 35 days within the past year, inspectors will review the child's record to verify that the required reporting was completed.

**Primary Benefit:** Ensures that children are being served in the least restrictive setting possible.

<b>283(12)</b>	3800.283(12) - The placement of each child shall be reviewed by a staff person designated by the director or the court at least weekly to assess whether the child could be served in a less restrictive setting. If a recommendation is made for a less restrictive setting, written documentation shall be included in the child's record and sent to the court.
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**Discussion:** The staff person designated by the director or the court should be specified in writing.

**Inspection Procedures:** Inspectors will review child records to verify that the required documents are present.

**Primary Benefit:** Ensures that children are being served in the least restrictive setting possible.

# TRANSITIONAL LIVING

## Criteria

<b>291</b>	3800.291 - A child shall complete a training program and demonstrate competency in the following areas to be eligible for transitional living: (1) Health, general safety and fire safety practices. (2) Money management. (3) Transportation skills. (4) Child health and safety, child development and parenting skills, if the child has a child living with him at the residence.
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**Discussion:** While not specifically required by this regulation, it is likely that each transitional living residence will have a standard or template training program. In order to determine if a child is eligible for transitional living, the training and means of demonstrating competency must be established prior to admission to the residence.

**Inspection Procedures:** Inspectors will review child records to verify that the required training program was completed, and that competency in the identified areas was demonstrated.

**Primary Benefit:** Ensures that children who participate in a transitional living program have the basic life skills required for semi-independent living.

## Additional Requirements

<b>293b</b>	3800.293(b) - If there are 11 or fewer children present on the premises at any one time, one child care worker shall be available onsite or by telephone. A child's own children present at the residence shall be counted in the staffing ratio.
<b>293c</b>	3800.293(c) - If there are 12 or more children present on the premises at any one time, there shall be one child care worker present on the premises for every 12 children. A child's own children present at the residence shall be counted in the staffing ratio.

**Discussion:** "Present on the premises" means physically present on the premises of each licensed facility. For example, if 3 facilities on the same grounds serve 16 or more children, then a child care supervisor must be present in each facility whenever there are 16 or more children present.

Pursuant to § 3800.4, a living unit in a transitional living residence may not exceed 4 children, including a resident child's own children. If a licensed facility consists of multiple living units, each living unit may not exceed 4 children. If a licensed facility is a communal living space with separate bedrooms only, the facility's licensed capacity may not exceed 4.

Remember: The staffing requirements required by the above regulations are the minimum allowable for regulatory compliance. Additional staff may need to be provided based on the needs identified in a child's safety plan or individual service plan. Examples of needs that may necessitate additional staffing include:

- Hands-on assistance to ambulate or evacuate from one or more persons
- 24-hour direct supervision
- An acute medical condition that requires special treatment or observation

See also §§ 3800.54(a)-(b), 106(c)-(d), 171(1).

**Inspection Procedures:** Inspectors will obtain a staff schedule for the calendar month preceding the month in which the inspection is being conducted, and select a sample of days from the schedule. Inspectors will verify that the number of child care supervisors were present or accessible and that child care workers were present or accessible on the sampled days. Inspectors may also review payroll records, observe staff ratios during the inspection, and interview staff and children to verify that these requirements are met, as appropriate.

**Primary Benefit:** Ensures that sufficient staff are present to supervise and protect children in care.

# OUTDOOR AND MOBILE PROGRAMS

## Additional Requirements

Additional Requirements	
<b>303a1</b>	3800.303(a)(1) - There shall be a supply of food and water for drinking, cleaning and bathing for the number of days until the program will reach the next supply of food and water.
<b>303a2</b>	3800.303(a)(2) - Potable drinking water shall be available to children at all times.
<p><b>Discussion:</b> Self-explanatory.</p> <p><b>Inspection Procedures:</b> Inspectors will interview the director and/or staff to determine if the facility has the necessary supplies as per the regulation. Inspectors may also inspect the facility's food and water supply to determine compliance with the regulation.</p> <p><b>Primary Benefit:</b> It is important that a person stay hydrated at all times; water is the life sustaining drink to humans and is essential to the survival of all organisms. A person's body requires a constant input of energy and nutrients at least three times a day for proper nutrition. Practicing good personal hygiene helps to prevent the spread of disease. It is important that the facility plan in advance to have these supplies in place for children, as not having access to them can attribute to child injury or death.</p>	
<b>303a3</b>	3800.303(a)(3) - There shall be an opportunity for children to bathe once a week, brush their teeth once a day and wash their hands before each meal.
<p><b>Discussion:</b> Self-explanatory.</p> <p><b>Inspection Procedures:</b> Inspectors will interview the director, staff and/or children in the facility to determine if the facility is providing children with the opportunity to practice good hygiene as per the regulation.</p> <p><b>Primary Benefit:</b> Ensures that children practice good personal hygiene while in the care of the facility, as well as helps to prevent the spread of disease.</p>	
<b>303a4</b>	3800.303(a)(4) - There shall be a communication system such as a CB radio to communicate with public emergency sources in the event of a medical, police, fire or other emergency.
<p><b>Discussion:</b> Self-explanatory.</p> <p><b>Inspection Procedures:</b> Inspectors will interview the director, staff and/or children in the facility to verify that there is a communication system in place for staff to obtain emergency services if needed. Inspectors may also inspect the communication system to determine if it meets the regulation.</p> <p><b>Primary Benefit:</b> Allows for staff to have immediate access to call for help in the event of an emergency.</p>	
<b>303a5</b>	3800.303(a)(5) - There shall be a source for routine weather information for advance warning of severe or dangerous weather conditions.
<p><b>Discussion:</b> Self-explanatory.</p> <p><b>Inspection Procedures:</b> Inspectors will interview the director, staff and/or children in the facility to verify that there is routine weather information for advance warning of severe or dangerous weather conditions available.</p> <p><b>Primary Benefit:</b> Ensures that staff and children have ample notice to prepare for and possibly endure a severe or dangerous weather condition. Having time to prepare in advance may help decrease the chance of child injury or death.</p>	

<b>303a6</b>	3800.303(a)(6) - There shall be a written emergency transportation and staffing plan and equipment such as a litter to transport a child in a medical emergency.
<p><b>Discussion:</b> Self-explanatory.</p> <p><b>Inspection Procedures:</b> Inspectors will review the facility's emergency transportation and staffing plan and verify that all of the required elements are present.</p> <p><b>Primary Benefit:</b> Ensures that the facility is prepared to respond to general medical emergencies.</p>	
<b>303a7</b>	3800.303(a)(7) - There shall be a written plan for conducting a search for a missing child and requesting assistance from local authorities.
<p><b>Discussion:</b> Self-explanatory.</p> <p><b>Inspection Procedures:</b> Inspectors will review the facility's written plan and verify that all of the required elements are present.</p> <p><b>Primary Benefit:</b> Ensures that the facility is prepared to respond emergencies such as missing children.</p>	
<b>303a8</b>	3800.303(a)(8) - For mobile programs and outdoor programs whenever children are away from the stationary outdoor site, each staff person shall have a map of the area.
<p><b>Discussion:</b> Staff at the stationary site and all of the staff persons who are present with the children must have access to the required information.</p> <p><b>Inspection Procedures:</b> Inspectors will verify that all staff present during the time of the inspection have a map of the area.</p> <p><b>Primary Benefit:</b> Ensures that staff are aware of their surroundings and can find locations within the area of the facility.</p>	
<b>303a9</b>	3800.303(a)(9) - For mobile programs and outdoor programs whenever children are away from the stationary outdoor site, each staff person shall have a written anticipated schedule of the dates, times and estimated locations for the next 7 days.
<p><b>Discussion:</b> Staff at the stationary site and all of the staff persons who are present with the children must have access to the required information.</p> <p><b>Inspection Procedures:</b> Inspectors will verify that all staff present during the time of the inspection have or have immediate access to the required schedule.</p> <p><b>Primary Benefit:</b> A schedule of locations aids search-and-rescue efforts in the event that mobile program participants are missing.</p>	
<b>303a10</b>	3800.303(a)(10) - Each child shall wear footwear that is well-constructed, in good condition and appropriate for the activity being conducted.
<p><b>Discussion:</b> Assistance shall be provided such that each child will have appropriate clothing including footwear.</p> <p>See also § 3800.32(o).</p> <p><b>Inspection Procedures:</b> Inspectors will observe children's footwear during the inspection to ensure that it is well-constructed, in good condition and appropriate for the activity being conducted, and will interview staff about the facility's process to provide assistance with securing footwear.</p> <p><b>Primary Benefit:</b> Wearing proper footwear is a fundamental element in preventing injury. Without the proper footwear, children become at risk for injury.</p>	



<b>303b1</b>	3800.303(b)(1) - Each child shall have personal hygiene supplies, shelter such as a fire retardant tent or tarpaulin, a fire retardant sleeping bag or other sleeping equipment, bedding appropriate to the temperature and at least one change of clothing.
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**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will interview the director, staff and/or children in the facility as well as observe children at the facility to verify that each child has the requirements as listed in the regulation.

**Primary Benefit:** Ensures that children have the necessary personal hygiene items and other supplies to provide comfort and warmth while engaging in the facility's programming.

<b>303b2</b>	3800.303(b)(2) - While the child is engaged in an activity away from a stationary site, each child shall have a daily water supply and a whistle for use in emergencies.
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**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will interview the director, staff and/or children in the facility as well as observe children at the facility to verify that each child has a daily water supply and a whistle.

**Primary Benefit:** It is important that a person stay hydrated at all times; water is the life sustaining drink to humans and is essential to the survival of all organisms. Ensures that children have a method for communicating and contacting help in the event of an emergency.

<b>303b3</b>	3800.303(b)(3) - Safe and well-maintained equipment shall be provided for activities.
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**Discussion:** This regulation does not include cosmetic repairs such as worn fabric on a chair or dented tables.

**Inspection Procedures:** Inspectors will examine all areas of the facility to determine if equipment provided for activities is safe, in good repair and free of hazards.

**Primary Benefit:** Activity equipment that is free of hazards and in good repair helps to maintain safety in the facility and minimize the risk that children will suffer an injury while using the equipment.

<b>303b4</b>	3800.303(b)(4) - Staff persons responsible for teaching children high-risk activities such as boating, biking, horseback riding, swimming and climbing shall be trained in safe practices regarding these activities. Documentation of the training shall be kept.
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**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will review staff records to verify that staff persons responsible for teaching children high-risk activities are trained in practices regarding these activities. Inspectors will verify that such documentation is present in staff records.

**Primary Benefit:** Ensures that staff are trained in the activities they are teaching to children in the facility. Ensures that children are learning proper techniques, as well as decreases their chance for risk of injury or death.

<b>303b5</b>	3800.303(b)(5) - At least one staff person shall be present with the children at all times who has current certification from a hospital or other recognized health care organization in first aid, Heimlich techniques and cardiopulmonary resuscitation.
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**Discussion:** "Present with the children" usually means "within visual or auditory range."

**Inspection Procedures:** Inspectors will review staff schedules as well as staff records to verify that staff who are present with the children have the proper training as per the regulation.

**Primary Benefit:** Ensures that minimum health and safety and emergency response standards are met while participating in the program.

**303c**

3800.303(c) - The maximum capacity specified on the certificate of compliance shall be based on 30 square feet per child, including measurement of all floor space

**Discussion:** "Maximum capacity" means the total number of children that the facility is permitted to serve, as specified on the license. Square footage should be obtained from portions of each stationary structure where children receive services. Administrative offices and record storage areas may not be included in the square footage calculations.

Outdoor and mobile programs that operate from nonstationary settings are exempt from licensed capacity. The capacity on these licenses will be listed as "N/A".

**Inspection Procedures:** Inspectors will verify the total number of children served in the facility at any point during the inspection period and compare the number to maximum capacity listed on license.

**Primary Benefit:** Protects from overcrowding, and ensures that the number of children served in the facility does not exceed toilet, bathing or hand-washing facilities necessary to maintain sanitary conditions

# DAY TREATMENT

## Additional Requirements

**312(2)**

3800.312(2) - If a child is absent from the premises without approval of staff persons, the facility shall orally notify the child's parent and, if applicable, the child's guardian or custodian, immediately.

**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will interview the director and staff of the facility to verify compliance with this regulation. If necessary, inspectors may also contact a child's parents, guardians or custodians (whichever applicable) to verify compliance with this regulation.

**Primary Benefit:** Ensures that the facility as well as children's parents, guardians or custodians (whichever applicable) is aware when a child is absent from the premises.

**312(3)**

3800.312(3) - For facilities serving 32 or more children, whenever 32 or more children are present at the facility, there shall be at least one child care supervisor present at the facility.

**Discussion:** "Present at the facility" means physically present on the premises of each licensed facility. For example, if 3 facilities on the same grounds serve 16 or more children, then a child care supervisor must be present in each facility whenever there are 16 or more children present.

**Inspection Procedures:** Inspectors will obtain a staff schedule for the calendar month preceding the month in which the inspection is being conducted and select a sample of days from the schedule. Inspectors will verify that the number of child care supervisors were present or accessible and that child care workers were present on the sampled days. Inspectors may also review payroll records, observe staff ratios during the inspection, and interview staff and children to verify that these requirements are met, as appropriate. Inspectors may also verify that there are sufficient staff on duty at any time to meet special needs identified in children's safety or individual service plan, as well as verify that the ages of child care workers properly correspond to the ages of the children served at the facility.

**Primary Benefit:** Ensures that sufficient staff are present to supervise and protect children in care.

**312(4)**

3800.312(4) - The facility shall have at least 15 square feet of indoor activity space per child, measured wall to wall including space occupied by furniture. Indoor activity space includes areas accessible to children such as dining areas, recreation areas and other general living areas. Indoor activity space does not include kitchens, bathrooms, counseling rooms, offices or hallways.

**Discussion:** The space required by this regulation may include a multi-purpose room, the facility's dining area, and one or more furnished living room or lounge areas.

**Inspection Procedures:** Inspectors will examine the facility's physical site and interview staff and children to determine if there is a location appropriate for holding activities.

**Primary Benefit:** Dedicated activity space creates a home-like atmosphere and fosters community interaction.

**312(5)**

3800.312(5) - There shall be at least one flush toilet for every 18 children.

**Discussion:** Urinals will be counted as one half of a toilet toward ratios.

See "Bathing and Toileting" in "Regulatory Issues and Frequently-Occurring Situations" for more information.

**Inspection Procedures:** Inspectors will count the number of children and verify if the facility has enough toilets to meet the 1:18 ratio.

**Primary Benefit:** Ensures that there are sufficient toilets to meet children's needs such that children may urinate or defecate without waiting.

<b>312(6)</b>	3800.312(6) - There shall be at least one sink for every 24 children.
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**Discussion:** Self-explanatory.

**Inspection Procedures:** Inspectors will count the number of children and verify if the facility has enough sinks meet the 1:24 ratio.

**Primary Benefit:** Ensures that there are sufficient sinks to meet children’s needs such that children may engage in self-care activities without waiting.

<b>312(7)</b>	3800.312(7) - If the child had a health examination that was completed in accordance with Article XIV of the Public School Code of 1949 (24 P. S. § § 14-1401—14-1422) and 28 Pa. Code § 23.2 (relating to medical examinations), for content and periodicity of the examination, an initial health examination within 15 days after admission is not required. The next examination shall be required within the periodicity schedule by the public school. The health examination completed in accordance with the public school requirements shall be accepted for day treatment service. A copy of the health examination shall be on file at the facility within 30 days after admission.
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**Discussion:** In accordance with 28 Pa.Code § 23.2 (relating to medical examinations), medical examinations are required on original entry into school, in grade six, and in grade 11.

**Inspection Procedures:** Inspectors will review child records to determine if the facility is in compliance with the regulation.

**Primary Benefit:** Accurate, updated medical information helps facilities decide whether a child’s needs can be met at the facility, helps the facility develop accurate assessments plans, and ensures that a child’s medical needs will be met.

<b>312(8)</b>	3800.312(8) - A meal break shall be provided to the children at least every 5 hours they are at the facility.
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<b>312(9)</b>	3800.312(9) - An evening snack shall be provided to children who are at the facility more than 3 hours beyond the evening meal.
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**Discussion:** This requirement does not apply if a child’s physician has prescribed otherwise.

**Inspection Procedures:** Inspectors will review child records, as well as interview the director, staff, and/or children of the facility to determine the amount of time between meals served at the facility.

**Primary Benefit:** A person’s body requires a constant input of energy and nutrients at least three times a day for proper nutrition. A facility which does not provide meals within the regulatory time requirement may put a child’s health in jeopardy.

# **PART II:**

# Regulatory Issues and Frequently Occurring Situations

## PART II: TABLE OF CONTENTS

To learn more about a particular topic, please review the applicable regulations.

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## Bathing and Toileting

Each facility must meet the 1:6 ratio of toilets, sinks, bathtubs/showers, and mirrors, based on licensed capacity, as illustrated below:

Licensed Capacity	Minimum Number of...			
	Toilets	Sinks	Bathtubs/Showers	Mirrors
1-6	1	1	1	1
7-12	2	2	2	2
13-18	3	3	3	3
19-24	4	4	4	4
25-30	5	5	5	5
31-36	6	6	6	6
37-42, etc.	7, etc.	7, etc.	7, etc.	7, etc.

These ratios must be met even if toilet and bathing facilities are shared by multiple facilities on the same grounds. If more than one facility uses toilet and bathing facilities, their cumulative licensed capacity will be used to measure compliance with this regulation.

### Cross-Reference of Applicable Regulations:

§ 3800.103 - Bathrooms

## Certificates of Occupancy and Maximum Capacity

**Maximum Capacity** - Each facility's maximum capacity (also known as licensed capacity) is listed on the facility's license to operate. The maximum capacity is determined by the square footage, showers, sinks, and toilets.

Occasionally, the facility's certificate of occupancy will dictate the maximum number of persons who can be served in the facility based on the building's construction; for example, facilities classified as C-3 may not serve more than 8 persons. "Maximum capacity" and "Certificate of Occupancy capacity" are not the same things! The former is determined by the Department by compliance with licensing measurements, the latter is determined by the building authority based on the facility's construction. Since both are legal limitations on the number of persons who may be served, facilities must always consider the lower of the two capacities the total number of children who may be served in the facility.

A certificate of occupancy may be withdrawn or restricted due to damage, physical site modifications not approved by the local building authority, and the like. Withdrawal or restriction will be issued in writing; this written documentation should be provided to the Department with the notification required by this regulation.

The Uniform Construction Code (UCC) requires a new certificate of occupancy for major structural, electrical, mechanical, and plumbing changes. In the event that a new certificate of occupancy is not required, it is recommended that a statement from the local building authority or the Department of Labor and Industry indicating that a new certificate of occupancy is not required be obtained.

**When a New Certificate of Occupancy is Required** – A new UCC approval is required for structural, electrical, mechanical and plumbing changes, as well as for changes relating to fire safety.

According to § 403.42 of the UCC, plumbing changes that do not require a new certificate of occupancy include: stopping leaks in a drain and a water, soil, waste or vent pipe, clearing stoppages or repairing leaks in pipes, valves or fixtures, and the removal and installation of water closets, faucets and lavatories if the valves or pipes are not replaced or rearranged. The UCC does apply and a new Certificate of Occupancy is required if a concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and is removed and replaced with new material.

According to § 403.42 of the UCC, electrical changes that do not require a new Certificate of Occupancy include: minor repair and maintenance work that includes the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles, electrical equipment used for radio and television transmissions, and the installation of a temporary system for the testing or servicing of electrical equipment or apparatus. The UCC does apply and a new Certificate of Occupancy is required for new equipment/wiring for power supply and the installation of towers and antennas.

Ordinary repairs do not require new Certificates of Occupancy. The following are examples of ordinary repairs, and do not require a new Certificate of Occupancy:

- Fences that are not over 6 feet high.
- Retaining walls (that are not over 4 feet in height measured from the lowest level of grade to the top of the wall, unless it is supporting a surcharge or impounding Class I, II, or III-A liquids).
- Water tanks (supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2 to 1).
- Sidewalks and driveways not more than 30 inches above grade that are not located over a basement or story below it and which are not part of an accessible route.
- Painting, papering, tiling, carpeting, cabinets, countertops and similar finishing work.
- Window replacement without structural change.

The following are not ordinary repairs, and do require a new Certificate of Occupancy:

- Cutting away a wall, partition, or portion of a wall.
- The removal or cutting of any structural beam or load-bearing support.
- The removal or change of any means of egress, or rearrangement of parts of a structure affecting the egress requirements, including the direction of a door swing.
- The addition to, alteration of, replacement, or relocation of any standpipe, water supply, sewer drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical.



**Certificates of Occupancy and Maximum Capacity (continued)**

If a facility has a question regarding whether they need a new Certificate of Occupancy and it is a unique situation that is not described above, the facility should contact its local building code authority or the Department of Labor and Industry for guidance.

**Cross-Reference of Applicable Regulations:**

- § 3800.13 – Capacity
- § 3800.14 – Certificate of Occupancy

## Criminal Background Checks

The Pennsylvania Child Protective Services Law (CPSL) was enacted in 1975 to prevent, identify and treat child abuse and neglect. In accordance with the CPSL, anyone who works in or wishes to work in a child residential or day treatment facility must have three types of clearances: a Pennsylvania Child Abuse History Clearance, a Pennsylvania State Police (PSP) Criminal Background Check, and a Federal Bureau of Investigations (FBI) Criminal Background Check.

### Clearances and Background Checks Upon Hire

Type	Hire Prohibited If:
Pennsylvania Child Abuse History Clearance	Applicant is named in the Statewide Central Register as the perpetrator of a founded report of child abuse committed within 5 years or less prior to verification.
PSP Criminal Background Check	Applicant has a criminal conviction for any of the offenses listed below or an equivalent crime under Federal law or the law of another state
	OR
FBI Criminal Background Check*	Applicant has been convicted of a felony offense under the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, committed within 5 years or less prior to the request for verification.

\*Employees of facilities who are residents of Pennsylvania and were hired prior to July 1, 2008 did not need an FBI clearance upon hire.

### Offenses that Prohibit the Hiring or Approval in a Child Residential or Day Treatment Facility

Chapter 25 (relating to criminal homicide). Section 2702 (relating to aggravated assault). Section 2709.1 (relating to stalking). Section 2901 (relating to kidnapping). Section 2902 (relating to unlawful restraint). Section 3121 (relating to rape). Section 3122.1 (relating to statutory sexual assault). Section 3123 (relating to involuntary deviate sexual intercourse). Section 3124.1 (relating to sexual assault). Section 3125 (relating to aggravated indecent assault). Section 3126 (relating to indecent assault).	Section 3127 (relating to indecent exposure). Section 4302 (relating to incest). Section 4303 (relating to concealing death of child). Section 4304 (relating to endangering welfare of children). Section 4305 (relating to dealing in infant children). A felony offense under section 5902(b) (relating to prostitution and related offenses). Section 5903(c) or (d) (relating to obscene and other sexual materials and performances). Section 6301 (relating to corruption of minors). Section 6312 (relating to sexual abuse of children).
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If an applicant has had all three clearances completed within the past three months prior to hire and provides the clearances to the facility, the applicant is not required to obtain new clearances.

In all cases, a representative of the facility must observe the original clearances once they are obtained and a copy must be maintained in the facility's records.

## **Criminal Background Checks (continued)**

### **Provisional Hiring**

Employees may be hired on a provisional basis pending receipt of the required clearances if the following conditions are met:

1. The provisional hiring period does not exceed 90 days.
2. The facility has no knowledge or information that would disqualify the applicant from employment (e.g., the facility does not know of any prior convictions or naming as a perpetrator of abuse).
3. Requests for all three types of clearances have been submitted, and copies of the completed request forms are retained and on file at the facility.
4. The applicant has sworn or affirmed in writing that (s)he is not disqualified from employment under section 6344 of the CPSL or an equivalent out-of-State crime.
5. The provisionally-hired employee does not work alone with children and works within the immediate vicinity of a permanent employee.
6. The provisional employee is immediately dismissed from employment if any of the required checks show that (s)he is disqualified from employment under section 6344 of the CPSL.

If the provisional employee does not submit the required clearances within 90 calendar days of employment, the facility must do one of the following:

- Dismiss the provisional employee until the required clearances are received.
- Lay off or place the provisional employee on leave with or without pay until the clearances are received.

### **Volunteers**

Effective July 1, 2015, a prospective volunteer that would have contact with children must obtain clearances prior to beginning service and every 36 months thereafter. Volunteers are exempt from obtaining an FBI criminal background check if they meet the following criteria:

- The position is unpaid.
- The volunteer has been a Pennsylvania resident for the entirety of the past ten years.
- The volunteer has sworn or affirmed in writing that (s)he is not disqualified from volunteering under section 6344 of the CPSL or an equivalent out-of-State crime.

If the prospective volunteer has had all three clearances completed within the past 36 months prior to beginning service and provides the clearances to the facility, the prospective volunteer is not required to obtain new clearances.

### **Renewal of Clearances**

All three types of clearances must be renewed every 36 months.

Employees hired prior to December 31, 2014...

- If clearances were obtained within the past 36 months, new clearances must be obtained within 36 months of the dates of their current clearances.
- If clearances were older than 36 months, new clearances must be obtained by December 31, 2015.
- Employees hired prior to 7/1/08 that were not required to obtain an FBI criminal background check, must obtain one prior to 12/31/15.

If, after starting with the facility an employee or volunteer is arrested for or convicted of a prohibited offense or is named as a perpetrator in a founded or indicated child abuse report, the employee or volunteer must provide written notice to the facility or agency within 72 hours after the arrest, conviction or notification.

If the facility or agency has a reasonable belief that an employee or volunteer was arrested or convicted for a prohibited offense or was named as a perpetrator in a founded or indicated report, or the employee or volunteer has provided notice as described above, the facility must immediately require the employee or volunteer to submit current background clearances.

## Criminal Background Checks (continued)

### How to Obtain a Clearance

#### **Pennsylvania Child Abuse History Clearance:**

Pennsylvania Child Abuse History Clearances must be completed on the Child Abuse History Clearance application form (CY113) or done online through the Department's Child Welfare Information Solution.

The Child Welfare Information Solution can be found at <https://www.compass.state.pa.us/CWIS>.

Creating an account and submitting an application online will provide immediate access to the results or the status of the results if the results cannot be processed immediately. Organizations who wish to set up a business account to purchase child abuse history clearances for their applicants or employees, may do so.

The CY113 application and instructions on how to complete it can be found at:

<http://www.dhs.state.pa.us/findaform/childabusehistoryclearanceforms/>

Effective December 31, 2014, the Pennsylvania Child Abuse History Clearance Certificate will no longer be issued on ivory marble security paper. All child abuse history clearance results will be issued on plain white paper.

#### **Pennsylvania State Police Criminal Record Check:**

Pennsylvania State Police (PSP) checks must be completed on the Pennsylvania State Police Request for Criminal Background Check form (SPF-164) or done through the Pennsylvania State Police's "E-Patch" online system.

Below is the link to the Pennsylvania Criminal Record Check form (SP4-164):

[Pennsylvania State Police Request for Criminal record Check Form \(SP4-164\)](#)

The link to the E-Patch system can be found here: <https://epatch.state.pa.us/Home.jsp>

#### **Federal Bureau of Investigation (FBI) Criminal Background Check:**

The Pennsylvania Department of Human Services is utilizing Cogent Systems to process fingerprint-based FBI criminal background checks. The background check is a multiple step process and will result in a form letter from the Department of Human Services, Office of Children, Youth, and Families verifying whether the applicant is eligible for employment.

The registration can be found at [www.pa.cogentid.com//index\\_dpw.htm](http://www.pa.cogentid.com//index_dpw.htm).

Pennsylvania's Department of Education and Department of Aging also utilize fingerprint-based FBI background checks. When an FBI criminal history background check is completed through another Commonwealth agency and no record exists, there is no need to have the rap sheet interpreted by ChildLine in order to have a results letter issued stating no record exists. Instead, applicants may simply provide a copy of their FBI clearance to their prospective employer. The results will read, "A search of the fingerprints on the above individual has revealed no prior arrest data." If the results received through another Commonwealth agency reveal that a record exists, the applicant must submit those results to Department of Human Services' ChildLine Verification Unit for interpretation.

#### **Cross-Reference of Applicable Regulations:**

§ 3800.51, 52 – Criminal Background Checks

## Electronic Monitoring Devices

Electronic monitoring devices are used in 3800-licensed settings to protect children from harmful behaviors manifested by themselves or by others. Such devices include, but are not limited to:

- Cameras
- Motion detectors
- Audio monitoring systems

There are no specific regulatory requirements relating to the use of electronic monitoring devices, but there are regulations that conjointly apply to electronic monitoring. For example:

- § 3800.32(c) and § 3800.33(a) – Children must be treated with fairness, dignity, and respect, and may not be deprived of civil rights. Unreasonable use of electronic monitoring systems is undignified and disrespectful, and may constitute a violation of a child's civil rights.
- § 3800.141(a)-(d) – The health and safety assessments of monitored children should clearly establish a need for electronic monitoring, such as sexually problematic or violent behaviors.
- § 3800.223 – The placement process should reflect how electronic monitoring meets a child's needs, including court orders for electronic monitoring.
- § 3800.226 – The ISPs of children who are being monitored should reflect why electronic monitoring is being used.

The use of electronic monitoring systems does not automatically "flag" a facility for increased regulatory scrutiny. However, certain practices will require close review and may result in a regulatory violation. Such practices typically include:

- Using electronic monitoring for the convenience of staff rather than for specific treatment or safety purposes.
- Electronic monitoring that is clearly undignified or disrespectful, such as video monitoring in children's bathrooms or dressing areas.
- Electronic monitoring related to unreasonable search and seizure.
- Any practice where the need for electronic monitoring is not commensurate with the scope of the monitoring or the degree of the monitoring.

If electronic monitoring practices are in place and if the practice of electronic monitoring warrants intensive review, the Department will gather data about the facility's monitoring system during the inspection and will consider the collected data *in total* to determine whether use of the system constitutes a violation of any regulation. Note that this process is not unique to electronic monitoring – it is the same process a regulator uses for any potential rights violation identified during the course of an inspection not specifically addressed by regulation.

### Cross-Reference of Applicable Regulations:

§§ 3800.32(c), 33(a) – Specific Rights  
§ 3800.141(a)-(d) - Assessment  
§ 3800.223 – Placement Process  
§ 3800.226 – ISPs

## Fire Drills and Evacuations

Conducting fire drills is very important. If drills are not practiced regularly and accurately, injuries and fatalities may result if an actual fire occurs. There are four key points to remember about fire drills:

1. It's very important that children and staff take treat every alarm as if it was a real fire, because it *may well be real*. Assuming that an alarm is sounding because of a drill or malfunction can be a deadly mistake. It is for this reason that fire drills must be unannounced. If people know in advance that a drill will be held, they will:
  - Be prepared to take action, when in a real fire they would not be ready to act.
  - Evacuate more slowly than they would in the event of a real fire.
  - Be tempted to ignore the alarm, which they would certainly not do in a real fire.
2. It is critical that facilities know the maximum amount of time that staff and children have to evacuate. Each facility will have a different maximum evacuation time based on its design, construction, staffing, and operation.
  - Some facilities are constructed to be extremely fireproof – they have special walls and ceilings and fire suppression systems. Fire will spread quickly in other homes because of how the home is designed.
  - Some facilities have many staff that can help children evacuate, while others have few staff on duty on certain shifts.
  - If children do not evacuate within the maximum evacuation time, they could be injured or killed in a real fire.
  - Neither providers nor agents of the Department are qualified to determine the maximum evacuation time (in fact, facilities are prohibited from doing so by regulation). For this reason, a fire-safety expert must establish maximum evacuation times above 2 minutes and 30 seconds.
3. A fire can start at any time of the day or night. As a result, facilities must know that staff and children can evacuate under the worst possible conditions. While it may seem unkind to conduct fire drills during inclement weather or in the middle of the night, practicing under such conditions is the best test of a facility's ability to safely evacuate children – and offers the peace of mind that comes with knowing that the home has taken every possible step to protect children's' lives.
4. No two fires are alike. Fires can start in bedrooms, attics, kitchens, basements, or outside the facility. When practicing evacuation during fire drills, facilities must vary the location of the fire and the exit routes used to ensure that staff and children are prepared to respond to different fire scenarios.

**Scheduling the Drill** - In order to be "unannounced," fire drills must be held without any notice to the children or to staff persons, other than the staff person responsible for setting off the alarm/detector and recording the results and the administrator. The Department recommends that the director develop a schedule of monthly drills for the training year to help ensure the drills are held on different days of the week, at different times of the day and night, not routinely held when additional staff persons are present and not routinely held at times when resident attendance is low. Only the person(s) responsible for setting off the alarm/detector and recording the results should be informed of the drill; the drill is no longer "unannounced" if staff responsible for evacuating residents know that a drill will occur or is occurring. If the facility is equipped with an alarm that is connected to the local fire department or 24-hour monitoring service, remember to put the system on "test" or otherwise inform first responders that a drill will be held. When planning drills, facilities should consider what human resources would be available in the event of a real fire at any given time, and the requirements of the facility's evacuation plan. For example, if staff from a neighboring facility assist in drills, then the same staff must be available to assist in evacuating children during an actual fire emergency. Additionally, adding staff during fire drills to accomplish a successful evacuation not only makes the drill a worthless exercise, it puts children at risk if a real fire occurs. In other words, facilities may not practice evacuating children using resources that won't be available in a real fire.

**Evacuation** – § 3800.132(d) can be confusing primarily because it contains two elements – the time allotted for evacuation and the location in which children are evacuated to.

## Fire Drills and Evacuations (continued)

**Evacuation Time:** If a facility can safely evacuate all children during each fire drill or actual emergency within 2 1/2 minutes or less, there is no need for documentation from a fire safety expert regarding the evacuation time. If a documented evacuation time by a fire safety expert is required, the facility must be able to evacuate all children within that specified evacuation time and must obtain the documentation from a fire safety expert each year. Evacuation time is measured in minutes and seconds from the time the alarm sounds to the time when the last child enters the fire safe area(s) or exits the outside door.

**Evacuation Location:** If a facility evacuates all children to the exterior of the building during each fire drill and actual emergency, there is no need for documentation from a fire safety expert regarding the evacuation location. If a facility evacuates children to the interior of the building, "fire safe areas" must be designated in writing by the fire safety expert.

A facility must have newly updated written documentation each year from a fire safety expert, even if no physical modifications have been made to the building, and must be able to demonstrate that the person completing the documentation is a fire-safety expert.

**Conducting the Drill:** A drill is conducted by placing a "simulated fire" somewhere in the facility, sounding the alarm, and evacuating children. In order to practice using alternate routes, the facility should vary the location of the hypothetical fire during each drill. This may be done by simulating a blocked door or egress path (placing a large display/poster of a hypothetical fire in an exit path) and practicing to evacuate through an alternate path of egress.

If the facility has internal fire-safe areas, it is recommended that the hypothetical fire should be located in each fire-safe area at least once every two calendar years.

The way children will evacuate depends on the maximum evacuation time, the location of the simulated fire, and whether fire-safe areas exist in the facility. Remember that all children must participate in each fire drill, meaning that all children must respond to the alarm and evacuate outside the building or to the nearest fire safe area within the maximum evacuation time.

The different types of evacuation processes are described below:

1. Complete External Evacuation – There are no fire-safe areas in the facility. All children evacuate outside of the building to a designated meeting place during each drill.
2. Partial External Evacuation – There are some fire-safe areas in the facility, but not enough to accommodate all children. Some children evacuate outside of the building to a designated meeting place during each drill, and some evacuate to fire-safe areas.
3. Complete Internal Evacuation – There are fire-safe areas in the facility sufficient to accommodate all children. All children evacuate to fire-safe areas during each drill, although evacuation outside is possible.

During partial or complete internal evacuations, some children may already be in fire-safe areas. For example, if a single-story facility has three wings, and each wing is a fire-safe area, staff and children in the two wings where the "simulated fire" is not occurring are already in fire-safe areas. However, this does not mean that the staff and children in these areas do not need to take action. Staff should immediately assure that the fire safe area is sealed/secured (all doors closed) and then alert children to be awake and ready to evacuate from the fire safe area if necessary should the fire spread or should fire officials recommend evacuation. This must include children moving to the designated meeting place within the fire safe area .

§ 3800.132(h) intends that the facility designate one meeting place so that staff persons and emergency personnel can quickly check to determine if all children have been evacuated. However, if it is absolutely necessary due to exit paths and physical disabilities of children to have multiple external meetings places, both meeting places must be able to be checked by staff within 30 seconds (in person or through electronic communication such as cell phones or walkie-talkies) to ensure that children's supervision needs are met.

## Fire Drills and Evacuations (continued)

There may be more than one internal designated meeting place if the facility is equipped with more than one fire-safe area, in that each area will have a designated meeting place within the fire-safe area. Remember that a sufficient number of staff must be present on each shift at all times to allow facilities to account for and supervise the number of children in each area. This is also important during drills to verify that evacuations are completed within the time specified by a fire-safety expert. Equipping staff with communication devices is recommended in the fire safe areas to be able to immediately talk with staff in all of the other fire safe areas to ensure that all children in the facility are accounted for. Each staff person must be trained to know to which fire safe area (s) he is to be present in if a fire or fire drill occurs.

**Timing the Drill** - The fire drill time begins when the alarm is sounded, and ends when the last child enters the fire safe area(s) or exits the outside door. The best way to record this is by using two stopwatches, as follows:

1. When the alarm sounds, start both stopwatches.
2. When you believe that all children have exited the building or arrived in a fire-safe area, stop one of the stopwatches.
3. Check the facility to ensure that all children have evacuated. If you discover that one or more children have not evacuated, assist the children out of the building or to a fire-safe area. Once all of the children have been evacuated, stop the second stopwatch.

If when checking the home you discover that all children have evacuated, the time recorded by the first stopwatch is the official fire drill time. If, on the other hand, you discover that one or more children did not evacuate, the time recorded by the second stopwatch is the official fire drill time. In the latter case, it is recommended that both times be recorded on the fire drill log to demonstrate that most children were able to evacuate in time, since the scope of the problem is related to developing an acceptable plan of correction.

**Recording Drill Data** - § 3800.132(c) requires that specific information about fire drills be recorded, as follows:

- Date. This means the month, day and year in which the fire drill was conducted.
- Time. This means the time of day, including designation of AM / PM or 24-Hour time format.
- The amount of time it took for evacuation. See "Timing the Drill" above.
- The exit route used. This means all exit routes used except for the route that is "blocked" by the simulated fire.
- The number of children in the home at the time of the drill. This means the number of children physically present in the facility at the time of the drill, not the total census. For example, if 20 children "live" at the facility, but three are away from the facility at the time of the drill, the number of children in the home at the time of the drill is 17.
- Problems encountered. This can include children who refuse to evacuate, a staff person who failed to accurately perform his/her duties, or any other events that impacted the evacuation. Problems should be recorded in detail, as awareness of problems will allow the home to remedy them.
- Whether the fire alarm or smoke detector was operative.

**"Sleeping Hours"** – Sleeping hours are between 11:00 PM and 6:59 AM, unless the facility has established sleeping hours in writing. It is strongly recommended that the sleeping-hour drill be held between 2:00 AM and 4:00 AM.



## **Fire Drills and Evacuations (continued)**

### **Actual Fire Events**

- Any fire drill conducted must be recorded on the log. This is true even if a drill is stopped mid-evacuation because it is clear that evacuation will not be successful or may be dangerous. Remember that documenting an unsuccessful drill is not evidence of non-compliance; documenting the steps taken to correct the problem that made the drill unsuccessful combined with documentation of subsequent successful drills is evidence of corrective action.
- Actual fire events do not need to be recorded on the fire drill log. However, if the facility is able to capture all of the required information during an actual fire event, the home may use the fire as the drill for that month.
- Facilities must follow their evacuation plans unless emergency responders arrive in scene and direct otherwise. Facilities that follow the direction of first responders will not be cited for failure to follow their evacuation plan.

### **Cross-Reference of Applicable Regulations:**

§ 3800.132 – Fire Drills

## Plans of Correction: Developing, Implementing, and Verifying Compliance

In order for the Department to issue any license, facilities must submit or agree to an acceptable plan of correction (POC). But what makes a plan of correction acceptable? Each inspection, licensing inspection summary, and POC is unique. The specific details of a violation of any individual regulation differ from facility to facility and from inspection to inspection.

As a result, there is no single POC that can be universally applied to all situations. Nevertheless, developing an acceptable POC always includes the following steps:

- 1. Review the benefit(s) of the regulation** - Compliance with a regulation is difficult if not impossible unless the facility understands why the regulation was written in the first place. In some cases, the reason for the regulation is obvious – everyone knows why flammable materials shouldn't be stored next to heat sources – while in other cases the reason for the regulation may not be as clear. This guide includes each regulation's "primary benefit" to help users understand the benefits of the regulation. Facilities may also contact the Department's Hotline with questions about the meaning of a regulation.
- 2. Review the violation of the regulation** - If the facility is writing a plan of correction, then that means the facility received a licensing inspection summary. Before writing a plan of correction, facilities should carefully review the Department's findings for Frequency, Seriousness, Potential of Recurrence, and Repeat Status.
  - **Frequency** means the number of actual events that led to the issuance of a violation. Were 50 health evaluations past-due, or only one? Was the prescribed dosage or possible side effects of a medication missing from every Medication Log, or only a small percentage? More events are typically indicative of the need for a detailed, targeted POC and a period of time to pass with no additional events of violation to ensure that the planned correction was successful.
  - **Seriousness** means the seriousness of the violation. For example, a facility may be in violation of § 3800.95 because a chair in the facility had worn, threadbare fabric (less serious), or because a shower of sparks issued from a light switch when the switch was activated (more serious). The greater the severity of the violation, the more steps the facility must take to demonstrate full compliance.
  - **Potential for recurrence** means the likelihood that the circumstances resulting in a violation will occur. For example, if a facility is missing a mirror in a bathroom and subsequently installs the mirror (and checks every other bathroom to ensure that mirrors are present), then the potential for recurrence of that violation is low. Conversely, a facility with a medication violation that administers multiple medications to numerous children several times per day presents a high potential for recurrence. POC detail and length of time required to demonstrate compliance increase as the potential for recurrence increases.
  - **Repeat status** means whether a violation of the same regulation was previously found. Repeated violations will require more detailed POCs and may require more time to elapse before full compliance can be determined.
- 3. Fix the immediate problem** - The licensing inspection summary will always cite a specific problem, such as a broken chair or water that is too hot. The first step towards compliance is fixing exactly what the Department found. Unfortunately, many facilities stop there, which prevents the Department from accepting the plan.
- 4. Determine the root cause of the violation** - If the Department found that the water in a bathroom was too hot, the facility will of course adjust the settings on the hot water heater - *but facilities must determine how the settings were too high in the first place to prevent the problem from happening again.* This process is called a "root cause analysis." Was the water too hot because the maintenance person does not know the maximum allowable temperature, or because a repairperson accidentally changed the setting while performing routine maintenance? The importance of this step cannot be understated.

## Plans of Correction: Developing, Implementing, and Verifying Compliance (continued)

5. **Prevent future occurrences** - Once facilities understand what caused the problem, they can develop a long-term plan that includes changing practice, teaching, and ongoing monitoring.
  - **Changing practice** means developing a new way to do business without violating a regulation. If the water was too hot because the water heater was malfunctioning and the heater was replaced to fix the immediate problem, the new hot water heater needs to be regularly checked to ensure that it is functioning properly in order for the facility to avoid future violations.
  - **Teaching** means making sure that everyone involved with regulatory compliance is aware of their roles and responsibilities, especially if the facility business practice has changed. Teaching will primarily involve staff, but children may need to be instructed about changes as well.
  - **Ongoing monitoring** means verifying that the facility is in compliance with both the regulation and the new business practice created to maintain compliance. Ongoing monitoring may need to be completed for a limited period of time or for the duration of the facility operation depending on the specific violation.
6. **Designate responsibility and specific target dates for correction** - It's critical that a specific person or persons be accountable for compliance. A general promise that water temperature will be monitored will not be effective – someone must be responsible for doing the monitoring, and must be rewarded or reprimanded based on the quality of his/her job performance. Moreover, specific dates by which correction tasks will be completed are required in order to effectively monitor plan completion and, ultimately, determine full compliance.
7. **Get help!** Remember, facilities are not without technical assistance resources when developing a plan of correction. Facilities may contact their regional licensing offices or call the Department's Operator Support Hotline for help in developing a POC. The most successful facilities are those that ask for help.

**Can facilities dispute a finding on the Licensing Inspection Summary?** Facilities may document disagreement with a finding, and/or may document that providing a plan does not constitute admission that the listed violation is accurate. However, facilities must provide a plan to correct each violation in addition to any statement(s) disputing the report's findings. Remember, the Department may not issue any kind of license without a plan of correction. Some facilities have expressed concern that the Department will use the plan provided as evidence that the violation existed – in other words, that providing a plan is an "admission of guilt." The Department cannot do this, since the law requires you to produce a plan.

**The verification process** - At the end of the inspection cycle, the Department reviews the degree of POC compliance the facility has achieved for each violation. This review determines in large part what kind of license the Department will issue – a regular license, a provisional license, or no license at all. There are four possible degrees of POC compliance status identified during the Department's review:

1. **Fully Implemented** - The facility has completed the POC steps in their entirety. This does not necessarily mean that all "ongoing monitoring" has been completed – indeed, permanent monitoring by definition cannot be "complete." Instead, this means that a monitoring plan has been established and tested such that full compliance is probable.
2. **Partially Implemented, Adequate Progress** - The facility has not completed all of the POC steps, but has done enough to demonstrate that eventual achievement of full compliance is probable.
3. **Partially Implemented, Inadequate Progress** - The facility has completed some of the POC steps, but has not done enough to demonstrate that eventual achievement of full compliance is probable.
4. **Not Implemented** - The facility has not completed any of the POC steps.

Clearly, it is in the facility's best interest to fully or adequately implement the POC, because failure to implement or adequately implement a POC is evidence of continued noncompliance, and by law, the Department must issue a provisional license if a facility is not in complete compliance with all regulations!

## Plans of Correction: Developing, Implementing, and Verifying Compliance (continued)

When a facility submits a POC, the facility should assume that the POC is acceptable and begin implementing the plan. Meanwhile, each POC is reviewed by the Department to determine if it is acceptable. If the plan is significantly unacceptable for one or more regulations, the Department will contact the facility by phone or letter to inform the facility of the unacceptable plan. "Significantly unacceptable" means that the plan is fundamentally flawed; in some cases, the Department will partially amend a POC without contacting the facility. In these cases, compliance, or noncompliance with the amendments are not used in the final licensing decision.

When a licensing inspection summary is transmitted to the facility, the facility is informed by the letter accompanying the summary to submit evidence of compliance with the plan along with the POC. The more evidence a facility submits, the easier it will be to determine compliance and issue a license. Examples of evidence include:

- **Documentation produced by the facility.** This evidence type includes new written policies, sign-in sheets showing attendance at staff trainings, children's assessments and support plans, maintenance logs, and any other internal documents.
- **Documentation produced by an external source.** This evidence type is extremely reliable, as it is generated by impartial third parties. Examples include bills and invoices for equipment, materials, or labor; written statements or letters from professionals who participated in the plan's implementation (such as fire-safety experts or outside training sources); and documents confirming future appointments (such as medical appointments or on-site repair work).
- **Photographic and video evidence.** Pictures and videos are good sources of evidence that the facility has made repairs or improvements to the physical site and grounds.

Some kinds of evidence are not useful to demonstrate compliance. Evidence that is not useful includes:

- **Statements of support from children, family members, or public officials.** While feedback from the community is valuable to the facility, it does not serve as evidence of regulatory compliance.
- **Promises to comply.** Written statements from the director where a promise is made to comply with the regulation is not factual evidence.
- **The plan of correction alone.** Some facilities believe that submitting a plan to correct violations is sufficient to demonstrate compliance. This is not the case. Following the plan leads to compliance, so evidence of following the plan is required.

It is strongly recommended that facilities contact the Department's regional office where the facility is located after submitting a plan of correction to verify that the plan was received, to verify that the plan was acceptable, and to ask what information is needed to demonstrate full or adequate compliance with the plan.

### **In summary, when managing plans of correction, facilities should:**

- Develop a strong plan of correction using the steps above.
- Submit solid evidence of both immediate and long-term compliance.

Use the Department's technical assistance resources to aid in the development and implementation of POCs.

## Restrictive Procedures

Restrictive procedures, also referred to as restraints, are used to protect children from harming themselves or others. Except in emergency situations where immediate action is required to protect the child or other persons, restrictive procedures should only be used as a method of last resort after less-intrusive measures to de-escalate dangerous behaviors have been tried but have failed. Any restrictive procedure must be stopped immediately when the child has regained self-control.

Restrictive procedures include chemical restraint, exclusion, manual restraint, mechanical restraint, aversive conditioning, pressure point techniques, and seclusion. Some of these procedures are only permitted in certain types of 3800-licensed settings; others are not permitted in any setting. The table below shows which procedures may and may not be used by specific types of service:

<b>Restrictive Procedure and Definition</b>	<b>Child Residential</b>	<b>Mobile Program</b>	<b>Outdoor Program</b>	<b>Secure Care</b>	<b>Secure Detention</b>	<b>Transitional Living</b>	<b>Day Treatment</b>
<b>Chemical Restraint – Non-emergency use</b> Use of a drug to control acute, episodic behavior that restricts the movement or function of a child, including Pro Re Nata (PRN) orders for controlling acute, episodic behaviors.	NO	NO	NO	NO	NO	NO	NO
<b>Chemical Restraint – Emergency use</b> Administration of drugs ordered by a licensed physician and administered by licensed, certified, or registered medical personnel on an emergency basis.	YES	YES	YES	YES	YES	YES	YES
<b>Exclusion</b> Removal of a child from the child's immediate environment and restricting the child alone to a room or area.	YES	YES	YES	YES	YES	YES	YES
<b>Manual Restraint</b> A physical, hands-on technique that lasts more than 1 minute, which restricts the movement or function of a child or portion of a child's body.	YES	YES	YES	YES	YES	YES	YES
<b>Manual Restraint – Respiratory Pressure</b> Manual restraints that apply pressure or weight on the child's respiratory system.	NO	NO	NO	NO	NO	NO	NO
<b>Manual Restraint – Prone Position</b> A restraint during which a child is held face down on the floor.	NO	NO	NO	NO	NO	NO	NO

<b>Mechanical Restraint</b> Use of a device that restricts the movement or function of a child or portion of a child's body.	NO	NO	NO	YES – See Below	YES– See Below	NO	NO
<b>Aversive Conditioning</b> The application of startling, painful or noxious stimuli.	NO	NO	NO	NO	NO	NO	NO
<b>Pressure Points</b> The application of pain for the purpose of achieving compliance.	NO	NO	NO	NO	NO	NO	NO
<b>Pressure Points – Bite Release</b> The application of pressure at the child's jaw point for the purpose of bite release.	YES	YES	YES	YES	YES	YES	YES
<b>Seclusion</b> Placing a child in a room with any type of door-locking device, such as a key lock, spring lock, bolt lock, foot pressure lock or physically holding the door shut.	NO	NO	NO	YES	YES	NO	NO

Items not considered to be Restraints:

Items or techniques that meet the technical definitions of restrictive procedures as listed above are occasionally used for treatment of medical or psychological conditions. In these cases, the items or techniques are not considered to be restrictive procedures. These include:

- **Chemical Restraints** - The term excludes drugs ordered by a licensed physician as part of ongoing medical treatment or as pretreatment prior to a medical or dental examination or treatment.
- **Exclusion** – A technique is not “exclusion” if a staff person remains in the exclusion area with the child.
- **Manual Restraints** – The term does not include:
  - A manual assist, of any duration, during which the child does not physically resist
  - A therapeutic hold lasting no longer than 10 minutes for a child who:
    - Is 8 years of age or younger, and
    - Does not physically resist the hold
- **Mechanical Restraints** - The term excludes devices used to provide support for functional body position or proper balance and a device used for medical treatment, such as sand bags to limit movement after medical treatment, a wheelchair belt that is used for body positioning and support or a helmet used for prevention of injury during seizure activity.

**Act 45 of 2010**

Act 45 only applies only to youth that have been alleged or adjudicated delinquent. Act 45 prohibits restraint on known pregnant females unless the youth represents a substantial risk of imminent flight or needs to be restrained to ensure the safety and security of the youth, other youth, the staff, or the public as a result of other extraordinary medical or security circumstances. If restraint is applied under the above circumstances, at no time should the youth be left without a staff person that has the ability to release the restraint present. If restraint is applied, it must be the least restrictive form of restraint. Any restraint to known pregnant females requires the facility to submit a written report on the attached form. This report should be submitted to [RA-pwarlheadquarters@pa.gov](mailto:RA-pwarlheadquarters@pa.gov). Any violation of Act 45 will be recorded under Article X of the Public Welfare code which requires that the facility meet the requirements of all applicable statutes.

## Staffing Calculations

The tables below show the number of child care workers based on age and time of day.

Children Ages 0-5.99 Years Old		
Number of Children	Awake Hours	Sleeping Hours
1-4	1	1
5-8	2	1
9-12	3	2
13-16	4	2
17-20	5	3
21-24	6	3
25-28	7	4
29-32	8	4
33-36	9	5
37-40	10	5
41-44	11	6
45-48	12	6

Children Ages 6 Years and Older		
Number of Children	Awake Hours	Sleeping Hours
1-8	1	1
9-16	2	1
17-24	3	2
25-32	4	2
33-40	5	3
41-48	6	3
49-56	7	4
57-64	8	4
65-72	9	5
73-80	10	5
81-88	11	6
89-96	12	6

When calculating ratios...

- SUBTRACT any child care workers who sleep on duty from the total number of available workers
- SUBTRACT any child care worker who serves as a certified lifeguard when measuring ratios during swimming periods
- If the facility serves children who are between 0 and 5.99 years old AND children who are 6 years or older, use the "Children Ages 6 Years and Older" table, but COUNT EVERY CHILD BETWEEN 0 AND 5.99 YEARS OLD TWICE. For example, if a facility serves 5 children who are five years old, and 8 children who are 9 years old, you would apply the ratios for "17-24" children ( $5 \times 2 = 10$ ,  $10 + 8 = 18$ ).

Remember:

- If one or more children are in the facility, these ratios apply.
- If no children are present in the facility but may return at any time, a staff person(s) must be present.
- If no children are present in the facility and will not return until an appointed time (for example, if all children attend public school), a child care worker does not need to be physically present in the facility, but sufficient staffing must be immediately available at any time the children return to the facility. If this scenario may occur in a facility, it is recommended that the facility develop a plan to staff the facility in the event of a child's unexpected return.
- Hourly observational checks must be conducted in-person; video or remote monitoring is not sufficient for regulatory compliance.

"Sleeping hour" hourly checks are not required if:

- The facility serves 12 or fewer children, AND
- Each of the children has lived at any facility within the legal entity for at least 6 months and each child's health and safety assessment indicates there are no high risk behaviors during sleeping hours, OR
- There are live-in staff persons at the facility.

There are no requirements that specific children be "assigned" to specific staff for checking or supervising, or that hourly checks be documented. However, facilities must have a system in place to ensure that all children are accounted for and to verify that the checks actually occur.

The staffing requirements required by the above regulations are the minimum allowable staff ratios for regulatory compliance. Additional staff may need to be provided or additional checks may need to be completed based on the needs identified in a child's safety plan or individual service plan. Examples of needs that may necessitate additional staffing include:

- Hands-on assistance to ambulate or evacuate for one or more persons
- 24-hour direct supervision
- A medical or behavioral condition that requires special treatment or observation

## Staff Training

It is very important for all staff persons who work in the facility, including management, administrative staff, child care staff, contract staff, ancillary staff, and volunteers that will have regular contact with children to be trained in the areas required by § 3800.58(b) in order to ensure the safety of the children.

This training must be included before any staff person can be alone with children, meaning that staff person must work within visual or auditory range of an employee who has received the necessary training.

The training must include all topics required by 58(b), but can include other topics as well to reach the minimum of 30 hours. Training in topics other than first aid, Heimlich techniques, cardiopulmonary resuscitation, and fire safety should be provided by an experienced staff person who has been properly trained.

Training in first aid, Heimlich techniques and cardiopulmonary resuscitation must be completed by an individual certified as a trainer by a hospital or other recognized health care organization. "Recognized health care organization" includes but is not limited to:

- The American Red Cross
- The American Heart Association
- The American Safety and Health Institute

A staff person who has been certified as a trainer by a hospital or other recognized health care organization may train and certify other staff.

Training that is conducted online with no hands-on practice does not provide the necessary training to ensure the staff person is able to properly perform CPR, first aid, or Heimlich techniques and will not be considered when measuring compliance.

Training in fire safety must be completed by a fire safety expert or, in facilities serving 20 or fewer children, by a staff person trained by a fire safety expert. Video tapes prepared by a fire safety expert are acceptable for the training if accompanied by an onsite staff person trained by a fire safety expert. A fire safety expert is a local fire department, fire protection engineer, Commonwealth certified fire protection instructor, college instructor in fire science, county or Commonwealth fire school, volunteer person trained and certified by a county or Commonwealth fire school or an insurance company loss control representative.

If a staff person has completed the required training within 12 months prior to the staff person's date of hire, the requirement for this training does not apply. It is recommended that training in fire safety and health and other special issues affecting the population be provided to all staff persons even if they have had this training elsewhere within the past 12 months. These topics are specific to the facility, as each facility has different fire-safety procedures and serves different populations.

The annual training requirements as § 3800.58(d) apply to all staff persons who have direct contact with children including contract staff, volunteers, and part time staff persons.

The facility is encouraged to provide training on a variety of topics to enhance the staff person's job knowledge and skills. In addition to training provided by the facility, the following types of training also apply:

- Any course from an accredited college or university related to care and management of children.
- Up to 6 hours of medication administration training, medication administration train-the-trainer course or train-the-trainer recertification required by § 3800.188(a).
- 50% of the hours spent in the diabetes education required by § 3800.188(b).
- Up to 4 hours of first aid, Heimlich techniques, and cardiopulmonary resuscitation required by § 3800.58(e).

### The Training Year

The facility may select the staff training year for calculation of the 40-hour training requirement. The year may be the calendar year, the facilities fiscal year, the staff person's anniversary date, or another 12-month period as determined by the facility. The facility must be able to verify the training year used.



## Training Requirements of the Child Protective Services Law

In 2014, an amendment to the Child Protective Services Law was enacted requiring that operators and employees of facilities licensed by the Department of Human Services receive training in child abuse recognition and reporting.

The following individuals that have direct contact with children are required to receive training in child abuse recognition and reporting:

### **Employees hired on or after December 31, 2014....**

- Must receive 3 hours of training within 90 days of hire
- Must receive 3 hours of training every five years thereafter

### **Employees hired prior to December 31, 2014...**

- Must receive 3 hours of training by July 1, 2015
- Must receive 3 hours of training every five years thereafter

### **Prospective operators that have not yet received a license...**

- Must receive 3 hours of training prior to the issuance of an initial license
- Must receive 3 hours of training every five years thereafter

Training must be completed by a source approved by the Department of Human Services. A list of Department-approved trainings can be found at [www.keepkidssafe.pa.gov](http://www.keepkidssafe.pa.gov).

An operator or employee may be exempted from the training requirements if ALL of the following apply:

- The operator or employee submits documentation to the facility that they have already completed training.
- The training was approved by the Department of Human Services in whole or in conjunction with the Department of Education.
- The amount of training received equals or exceeds the amount required.

During each inspection, BHSL will review training records to determine that each operator and employee that has direct contact with children has received the required training. BHSL staff will assure that the source of the training was approved by the Department by verifying it a source listed on the above website. Providers applying for initial licensure will need to submit training records to BHSL prior to the issuance of an initial license.

Failing to comply with training requirements in the Child Protective Services Law may result in a violation of Article X of the Public Welfare Code which requires that a facility meet the requirements of all applicable statutes.

## Waivers

Occasionally, a facility is unable to comply with a regulation due to the structure, operation, or population served. It is for this reason that facilities are permitted to request waivers of certain regulations.

**Restrictions on Waivers** - Not every regulation can be waived; the scope, definitions (§ 3800.5), or applicability (§ 3800.5) may not be waived.

Additionally, waivers cannot be granted unless the following conditions are met:

- There is no significant jeopardy to the children.
- There is an alternative for providing an equivalent level of health, safety, and well-being protection of the children. (Example: An equivalent level of protection for § 3800.55(g) requiring a high school diploma or GED for a staff person may be written documentation of the individual's literacy through a standardized testing method.)
- The benefit of waiving the regulation outweighs any risk to the health, safety, and well-being of the children.

**Requesting a Waiver** - To request a waiver, a facility must follow these steps:

1. Complete the Department's Request for Waiver form, available online at the Department's website, from the Department's regional offices, or by calling the Department's Operator Support Hotline. Make sure that the form is completed in its entirety, that the three conditions listed above are met, that the request comes from a representative of the facility (not a child, family member, or private citizen), and that separate waiver requests are submitted for each section, subsection, paragraph or subparagraph of the regulations.
2. Submit the completed form and all required attachments to the Department's Headquarters Office.

Remember, facilities must comply with all regulations unless a waiver has been approved. Submitting a request for a waiver does not permit noncompliance, nor is a plan to submit a waiver an acceptable plan of correction for a regulatory violation.

**The Waiver Decision** - The Department will typically make a decision to approve or deny the waiver in 60 days or less. Waivers requiring additional research or coordination with the facility, another Department, or an outside agency may take more time to process. The requesting facility must notify the affected child and designated person of the approval or denial of the waiver.

- If the waiver is granted, the Department will specify the length of time for which the waiver is granted and any conditions that the facility must meet.
- If the waiver is denied, the facility has the right to appeal. Instructions for filing an appeal will be included in the denial letter.

**Waiver Renewals, Applicability, and Revocations** - Requests for renewal of a waiver must be submitted to the Department at least 60 days prior to the expiration of the waiver. The renewal process is identical to the initial application process.

The facility must notify the Department in writing if the need for the waiver no longer exists or if conditions under which the waiver was granted are no longer met.

The Department will review each waiver annually as part of the annual licensing inspection to determine if the waiver is still warranted and if there is continued compliance with the conditions required by the waiver. The Department may revoke the waiver at any time if the conditions required by the waiver are not met, if conditions have not been met on a continual basis or if there is a risk to the health, safety, or well-being of the children.

### Cross-Reference of Applicable Regulations:

§ 3800.22 - Waivers

# PART III:

# Appendices

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To learn more about a particular topic, please review the applicable regulations.

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## PART III

### APPENDIX A: Reportable Incidents

Reportable incidents and conditions include:

- (1) The death of a child.
- (2) A physical act by a child to commit suicide.
- (3) A serious bodily injury or trauma requiring treatment at a hospital or medical facility. This does not include minor injuries such as sprains or minor cuts.  
**Exception:** "Serious bodily injury or trauma" is such that the individual experienced one or more of the following as a result of the injury:
  - Substantial risk of death
  - Extreme physical pain
  - Protracted loss or impairment of the function of a limb, organ, or other bodily member
  - Protracted unconsciousness
  - Significant or substantial internal damage (such as broken bones)**Only injuries of this type need to be reported.**
- (4) A violation of a child's rights in § 3800.32.
- (5) An unexplained absence of a child for 4 hours or more without the approval of staff persons, or for 30 minutes or more without approval of staff persons if the child may be in immediate jeopardy
- (6) Misuse of a child's funds by the facility's staff persons or legal entity.
- (7) An outbreak of a serious communicable disease as defined in 28 Pa.Code § 27.2 (relating to specific identified reportable diseases, infections and conditions). See Appendix B for a list of communicable diseases.
- (8) An incident requiring fire or police departments.
- (9) Any condition which results in the closure of the facility.

If a facility is unable to access HCSIS, a paper report must be either faxed to 717-783-5662 or e-mailed to [RA-pwarlheadquarters@pa.gov](mailto:RA-pwarlheadquarters@pa.gov).

A facility must orally report the following with 12 hours:

- (1) A fire requiring the relocation of children.
- (2) An unexpected death of a child.
- (3) A child who is missing from the facility if the police have been notified.

## **APPENDIX B: Serious Communicable Diseases as defined in 28 Pa.Code § 27.2**

**The following diseases, infections and conditions are reportable within 24 hours after being identified by symptoms, appearance or diagnosis:**

- Animal bite.
- Anthrax.
- Arboviruses.
- Botulism.
- Cholera.
- Diphtheria.
- Enterohemorrhagic E. coli.
- Food poisoning outbreak.
- Haemophilus influenzae invasive disease
- Hantavirus pulmonary syndrome.
- Hemorrhagic fever.
- Lead poisoning.
- Legionellosis.
- Measles (rubella).
- Meningococcal invasive disease.
- Plague.
- Poliomyelitis.
- Rabies.
- Smallpox.
- Typhoid fever.

**The following diseases, infections and conditions are reportable within 5 working days after being identified by symptoms, appearance or diagnosis:**

- AIDS.
- Amebiasis.
- Brucellosis.
- CD4 T-lymphocyte test result with a count of less than 200 cells/ $\mu$ L or a CD4 T-lymphocyte percentage of less than 14% of total lymphocytes (effective October 18, 2002).
- Campylobacteriosis.
- Cancer.
- Chancroid.
- Chickenpox (varicella) (effective January 26, 2005).
- Chlamydia trachomatis infections.
- Creutzfeldt-Jakob Disease.
- Cryptosporidiosis.
- Encephalitis.
- Giardiasis.
- Gonococcal infections.
- Granuloma inguinale.
- Guillain-Barre syndrome.
- HIV (Human Immunodeficiency Virus) (effective October 18, 2002).
- Hepatitis, viral, acute and chronic cases.
- Histoplasmosis.

Influenza.  
Leprosy (Hansen's disease).  
Leptospirosis.  
Listeriosis.  
Lyme disease.  
Lymphogranuloma venereum.  
Malaria.  
Meningitis (All types not caused by invasive Haemophilus influenza or Neisseria meningitis).  
Mumps.  
Pertussis (whooping cough).  
Psittacosis (ornithosis).  
Rickettsial diseases.  
Rubella (German measles) and congenital rubella syndrome.  
Salmonellosis.  
Shigellosis.  
Staphylococcus aureus, Vancomycin-resistant (or intermediate) invasive disease.  
Streptococcal invasive disease (group A).  
Streptococcus pneumoniae, drug-resistant invasive disease.  
Syphilis (all stages).  
Tetanus.  
Toxic shock syndrome.  
Toxoplasmosis.  
Trichinosis.  
Tuberculosis, suspected or confirmed active disease.  
Tularemia.

28 Pa.Code § 27.21 specifies the Pennsylvania Department of Health reporting procedures for communicable and non-communicable disease.

- ▶ Reporting of these diseases and conditions is required only if there is a written diagnosis by a physician and only if the initial diagnosis occurred after the child moved into the facility.
- ▶ Reporting of cancer is required only if the cancer was diagnosed by a physician after the child was admitted to the facility and if there are more than two cases of the same type of cancer diagnosed within the past year. It is important to look for any environmental causes of cancer and contact health authorities and/or DEP.
- ▶ It is not necessary to report the name of the staff person who is responsible for a specific medication error as long as the facility documents the staff name in the facility's written documentation.
- ▶ An outbreak of MRSA is not required to be reported as per the Department of Health's list of reportable diseases; therefore, MRSA cases or outbreaks are not required to be reported to the Department.

If it is suspected that there is a risk to the health and safety of other child due to an outbreak of a reportable disease, the regional licensing inspector should consult with their supervisor. The supervisor should immediately contact the local health department and report the incident. The inspector should remind the provider to follow universal precautions as well as any instructions provided by the local health department. If the local health department cannot be reached, the supervisor should contact the State Department of Health, Division of Infectious Disease Epidemiology at: (717) 787-3350.

HIPAA (Health Insurance Portability and Accountability Act) does not preclude the facility from sending these reports related to the health or condition of an individual resident, including a death certificate, to the Department. As a state licensing (oversight) agency, the Department is permitted free and full access to resident information.