

RULE REVIEW - CHAPTER 748
Minimum Standards for General Residential Operations
FINAL DRAFT - December 14, 2016

Subchapter A, Purpose and Scope

§748.3. Who is responsible for complying with these minimum standards~~the rules of this chapter~~?

(a) For a licensed general residential operation, the ~~The~~ permit holder must ensure compliance with the minimum standards ~~rules~~ in this chapter at all times, with the exception of those minimum standards ~~rules~~ identified for specific types of services that your operation does not offer. For example, if we license your operation ~~grant you a permit~~ to offer emergency care services only, you do not have to comply with the minimum standards ~~rules~~ that apply to treatment services for a child with an emotional disorder, treatment services for a child with an intellectual disability ~~mental retardation~~, or a transitional living program; however, you must comply with all other applicable minimum standards ~~rules~~ of this chapter.

(b) For an unlicensed general residential operation that is subject to Licensing's regulation, the operation's administrator, owner, or operator or any other controlling person who has the ability to influence or direct the operation's management, expenditures, or policies must ensure compliance with all the minimum standards in this chapter at all times, with the exception of those minimum standards identified for specific types of services that the unlicensed operation does not offer.

Subchapter B, Definitions and Services

Division 1, Definitions

§748.43. What do certain words and terms mean in this chapter?

The words and terms used in this chapter have the meanings assigned to them under §745.21 of this title (relating to What do the following words and terms mean when used in this chapter?), unless another meaning is assigned in this section or unless the context clearly indicates otherwise. The following words and terms have the following meanings unless the context clearly indicates otherwise:

(1) Accredited college or university--An institution of higher education accredited by one of the following regional accrediting entities:

(A) The Southern Association of Colleges and Schools, Commission on Colleges, a subdivision of the Southern Association of Colleges and Schools;

(B) The Middle States ~~Association of Colleges and Schools~~, Commission on Higher Education, a component of the Middle States Association of Colleges and Schools;

(C) ~~New England Association of Schools and Colleges~~, The Commission on Institutions of Higher Education, a subdivision of the New England Association of Schools and Colleges;

(D) ~~North Central Association of Colleges and Schools~~, The Higher Learning Commission (formerly part of the North Central Association of Colleges and Schools);

(E) The Northwest Commission on Colleges and Universities;

(F) ~~Western Association of Schools and Colleges~~, The Accrediting Commission for Senior Colleges and Universities, a subdivision of the Western Association of Schools and Colleges; or

(G) ~~Western Association of Schools and Colleges~~, The Accrediting Commission for Community and Junior Colleges, a subdivision of the Western Association of Schools and Colleges.

(2) Activity space--An area or room used for child activities.

(3) Adaptive functioning--Refers to how effectively a person copes with common life demands and how well the person meets standards of personal independence expected of someone in his particular age group, socio-cultural background, and community setting.

(4) Adult--A person 18 years old or older.

(5) Caregiver--A person counted in the child/caregiver ratio, whose duties include the direct care, supervision, guidance, and protection of a child. This does not include a contract service provider who:

(A) Provides a specific type of service to your operation for a limited number of hours per week or month; or

(B) Works with one particular child.

(6) Certified lifeguard--A person who has been trained in rescue techniques, lifesaving, and water safety by a qualified instructor from a recognized organization that awards a certificate upon successful completion of the training. A certified lifeguard ensures the safety of persons by preventing and responding to water related emergencies.

(7) Chemical restraint--A type of emergency behavior intervention that uses chemicals or pharmaceuticals through topical application, oral administration, injection, or other means to immobilize or sedate a child as a mechanism of control. The use of a medication is not a chemical restraint under this chapter if the medication:

(A) Is prescribed by a treating health-care professional;

(B) Is administered solely for medical or dental reasons; and

(C) Has a secondary effect of immobilizing or sedating a child.

(8) Child/caregiver ratio--The maximum number of children for whom one caregiver can be responsible.

(89) Childhood activities--Activities that are generally accepted as suitable for children of the same chronological age, level of maturity, and developmental level as determined by a reasonable and prudent parent standard as specified in §748.705 of this title (relating to What is the "reasonable and prudent parent standard"?). Examples of childhood activities include extracurricular activities, in-school and out-of-school activities, enrichment activities, cultural activities, and employment opportunities. Childhood activities include unsupervised childhood activities.

(10) Child in care--A child who is currently admitted as a resident of a general residential operation, regardless of whether the child is temporarily away from the operation, as in the case of a child at school or at work. Unless a child has been discharged from the operation, ~~he~~the child is considered a child in care.

(911) Child passenger safety seat system--An infant or child passenger restraint system that meets the federal standards for crash-tested restraint systems as set by the National Highway Traffic Safety Administration.

(12) Corporation or other type of business entity--May include an association, corporation, nonprofit association, nonprofit corporation, nonprofit association with religious affiliation, nonprofit corporation with religious affiliation, limited liability company, political subdivision, or state agency. For purposes of this chapter, this definition does not include any type of "partnership", which is defined separately.

(4013) Cottage or cottage home--A living arrangement for children who are not receiving treatment services in which:

(A) Each group of children has separate living quarters;

(B) 12 or fewer children are in each group;

(C) Primary caregivers live in the children's living quarters, 24 hours per day for at least four days a week or 15 days a month; and

(D) Other caregivers are used only to meet the child-to-caregiver ratio in an emergency or to supplement care provided by the primary caregivers.

(4114) Counseling--A procedure used by professionals from various disciplines in guiding individuals, families, groups, and communities by such activities as delineating alternatives, helping to articulate goals, processing feelings and options, and providing needed information. This definition does not include career counseling.

(4215) Days--Calendar days, unless otherwise stated.

(4316) De-escalation--Strategies used to defuse a volatile situation, to assist a child to regain behavioral control, and to avoid a physical restraint or other behavioral intervention.

(4417) Department--The Department of Family and Protective Services (DFPS).

(4518) Discipline--~~Guidance~~A form of guidance that is constructive or educational in nature and appropriate to the child's age, development, situation, and severity of the behavior.

~~(16) Disinfecting solution~~--~~A disinfecting solution may be:~~

~~(A) A self-made solution, prepared as follows:~~

~~(i) One tablespoon of regular strength liquid household bleach to each gallon of water used for disinfecting such items as toys, eating utensils, and nonporous surfaces (such as tile, metal, and hard plastics); or~~

~~(ii) One-fourth cup of regular strength liquid household bleach to each gallon of water used for disinfecting surfaces such as bathrooms, crib rails, diaper-changing tables, and porous surfaces, such as wood, rubber or soft plastics; or~~

~~(B) A commercial product that is registered with the Environmental Protection Agency (EPA) as an antimicrobial product and includes directions for use in a hospital as a disinfectant. You must use the product according to label directions. Commercial products must not be toxic on surfaces likely to be mouthed by children like crib rails and toys.~~

(~~17~~19) Emergency Behavior Intervention (EBI)--Interventions used in an emergency situation, including personal restraints, mechanical restraints, emergency medication, and seclusion.

(20) Emergency medication--A type of emergency behavior intervention that uses chemicals or pharmaceuticals through topical application, oral administration, injection, or other means to modify a child's behavior. The use of a medication is not an emergency medication under this chapter if the medication:

(A) Is prescribed by a treating health-care professional;

(B) Is administered solely for a medical or dental reason (e.g. Benadryl for an allergic reaction or medication to control seizures); and

(C) Has a secondary effect of modifying a child's behavior.

Helpful Information

The distinguishing variable between a PRN (as needed) psychotropic medication and an emergency medication is the circumstances under which the medication is given. A medication given to help a child manage his/her behavior or to de-escalate a child who is having trouble managing his/her behavior is regulated only as a PRN psychotropic medication. However, if the medication is given in response to an emergency situation, it is an emergency medication.

For example, a child becomes increasingly agitated after a family visit, to the point of screaming and becoming verbally abusive to caregivers and other children. The child is not able to use self-calming techniques. If the child is offered a PRN psychotropic medication under these circumstances, it is not regulated as emergency medication, because there is no emergency situation. The medication serves to help the child manage the behavior before it escalates into an emergency.

However, if the child had escalated to the point of physically assaulting someone and requiring physical restraint, then a medication offered during the restraint to help the child calm would be regulated as an emergency medication.

(21) Emergency situation--A situation in which attempted preventative de-escalatory or redirection techniques have not effectively reduced the potential for injury, so that intervention is immediately necessary to prevent:

(A) Imminent probable death or substantial bodily harm to the child because the child attempts or continually threatens to commit suicide or substantial bodily harm; or

(B) Imminent physical harm to another because of the child's overt acts, including attempting to harm others. These situations may include aggressive acts by the child, including serious incidents of shoving or grabbing others over their objections. These situations do not include verbal threats or verbal attacks.

(~~18~~22) Family members--An individual related to another individual within the third degree of consanguinity or affinity. For the definitions of consanguinity and affinity, see Chapter 745 of this title (relating to Licensing). The degree of the relationship is computed as described in Government Code, §573.023 (relating to Computation of Degree of Consanguinity) and §573.025 (relating to Computation of Degree of Affinity).

Helpful Information

Regarding the definition for (22) Family Member:

Relationship of Consanguinity AND Affinity

<u>Person Related within 1st Degree</u>	<u>Person Related within 2nd Degree</u>	<u>Person Related within 3rd Degree</u>
<ul style="list-style-type: none"> • <u>Parent;</u> • <u>Child;</u> • <u>Spouse;</u> • <u>Mother-In-Law and Father-In-Law; and</u> • <u>Daughter-In-Law and Son-In-Law.</u> <p><u>*Step and half relationships (step-brother, step-father, half-sister, etc.) are considered to be the same as blood relationships.</u></p>	<ul style="list-style-type: none"> • <u>Grandparent;</u> • <u>Grandparent-In-Law;</u> • <u>Grandchild;</u> • <u>Grandchild-In-Law;</u> • <u>Sister or Brother; and</u> • <u>Sister/Brother-In-Law.</u> 	<ul style="list-style-type: none"> • <u>Great-Grandparent;</u> • <u>Great-Grandparent-In- Law;</u> • <u>Grandchild;</u> • <u>Grandchild-In-Law;</u> • <u>Niece/Nephew;</u> • <u>Niece/Nephew-In-Law;</u> • <u>Aunt/Uncle; and</u> • <u>Aunt/Uncle-In-Law.</u>

(1923) Field trip--A group activity conducted away from the operation.

(2024) Food service--The preparation or serving of meals or snacks.

(2125) Full-time--At least 30 hours per week.

(2226) Garbage--Food or items that when deteriorating cause offensive odors and/or attract rodents, insects, and other pests.

(2327) General Residential Operation--A residential child-care operation that provides child care for 13 or more children or young adults. The care may include treatment services and/or programmatic services. These operations include formerly titled emergency shelters, operations providing basic child care, ~~operations serving children with mental retardation,~~ residential treatment centers, and halfway houses.

(28) Governing body--A group of persons or officers of the corporation or other type of business entity having ultimate authority and responsibility for the operation.

(2429) Group of children--Children assigned to a specific caregiver or caregivers. Generally, the group stays with the assigned caregiver(s) throughout the day and may move to different areas throughout the operation, indoors and out. For example, children who are assigned to specific caregivers occupying a unit or cottage are considered a group.

(2530) Health-care professional--A licensed physician, licensed ~~registered nurse with appropriate~~ advanced practice registered nurse ~~authorization from the Texas Board of Nursing, a, physician's assistant,~~ licensed vocational nurse (LVN), licensed registered nurse (RN), or other licensed medical personnel providing health care to the child within the scope of ~~his~~ the person's license. This does not include medical doctors or medical personnel not licensed to practice in the United States.

(2631) High-risk behavior--Behavior of a child that creates an immediate safety risk to self or others. Examples of high-risk behavior include suicide attempt, self-abuse, physical aggression causing bodily injury, chronic running away, ~~drug~~ addiction substance abuse, fire-setting, and sexual aggression or perpetration.

(~~27~~32) Human services field--A field of study that contains coursework in the social sciences of psychology and social work including some counseling classes focusing on normal and abnormal human development and interpersonal relationship skills from an accredited college or university. Coursework in guidance counseling does not apply.

(~~28~~33) Immediate danger--A situation where a prudent person would conclude that bodily harm would occur if there were no immediate interventions. Immediate danger includes a serious risk of suicide, serious physical injury to self or others, or the probability of bodily harm resulting from a child running away if less than ~~under~~ 10 years old chronologically or developmentally. Immediate danger does not include:

- (A) Harm that might occur over time or at a later time; or
- (B) Verbal threats or verbal attacks.

(~~29~~34) Infant--A child from birth through 17 months.

(~~30~~35) Livestock--An animal raised for human consumption or an equine animal.

(~~31~~36) Living quarters--A structure or part of a structure where a group of children reside, such as a building, house, cottage home, or unit.

(37) Mechanical restraint--A type of emergency behavior intervention that uses the application of a device to restrict the free movement of all or part of a child's body in order to control physical activity.

(~~32~~38) Mental health professional--Refers to:

- (A) A psychiatrist licensed by the Texas Medical Board;
- (B) A psychologist licensed by the Texas State Board of Examiners of Psychologists;
- (C) A master's level social worker or higher licensed by the Texas State Board of Social Work Examiners;
- (D) A professional counselor licensed by the Texas State Board of Examiners of Professional Counselors;
- (E) A marriage and family therapist licensed by the Texas State Board of Examiners of Marriage and Family Therapists; and
- (F) A master's level or higher nurse licensed as an Advanced Practice Registered Nurse by the Texas Board of Nursing and board certified in Psychiatric/Mental Health.

(~~33~~39) Non-ambulatory--A child that is only able to move from place to place with assistance, such as a walker, crutches, a wheelchair, or prosthetic leg.

(~~34~~40) Non-mobile--A child that is not able to move from place to place, even with assistance.

(~~35~~41) Operation--General residential operations, and including residential treatment centers.

(42) Owner--The sole proprietor, partnership, or corporation or other type of business entity who owns the operation.

(~~36~~43) Parent--A person ~~that~~who has legal responsibility for or legal custody of a child, including the managing conservator or legal guardian.

(44) Partnership--A partnership may be a general partnership, (general) limited liability partnership, limited partnership, or limited partnership as limited liability partnership.

(45) Permit holder--The owner of the operation that is granted the permit.

(46) Permit is no longer valid--For purposes of this chapter, a permit remains valid through the renewal process. A permit only becomes invalid when your operation

voluntarily closes or is required to close through an enforcement action in Subchapter L of Chapter 745 (relating to Enforcement Actions).

(3747) Person legally authorized to give consent--The person legally authorized to give consent by the Texas Family Code or a person authorized by the court.

(48) Personal restraint--A type of emergency behavior intervention that uses the application of physical force without the use of any device to restrict the free movement of all or part of a child's body in order to control physical activity. Personal restraint includes escorting, which is when a caregiver uses physical force to move or direct a child who physically resists moving with the caregiver to another location.

(3849) Physical force--Pressure applied to a child's body that reduces or eliminates the child's ability to move freely.

(3950) PRN--A standing order or prescription that applies "pro re nata" or "as needed according to circumstances."

(51) Prone restraint--A restraint in which the child is placed in a chest-down hold.

(4052) Psychosocial assessment--An evaluation by a mental health professional of a child's mental health that includes a:

(A) Clinical interview of the child;

(B) Diagnosis from the Diagnostic and Statistical Manual of Mental Disorders 5 (DSM-5), or statement that rules out a DSM-5 diagnosis;

(C) Treatment plan for the child, including whether further evaluation of the child is needed (for example: is a psychiatric evaluation needed to determine if the child would benefit from psychotropic medication or hospitalization; or is a psychological evaluation with psychometric testing needed to determine if the child has a learning disabilitiesdisability or an intellectual disabilitiesdisability); and

(D) Written summary of the assessment.

(53) Re-evaluate--Re-assessing all factors required for the initial evaluation for the purpose of determining if any substantive changes have occurred. If substantive changes have occurred, these areas must be fully evaluated.

(4454) Regularly--On a recurring, scheduled basis. Note: For the definition for "regularly or frequently present at an operation" as it applies to background checks, see §745.601 of this title (relating to What words must I know to understand this subchapter?).

(4255) Residential Treatment Center (RTC)--A general residential operation for 13 or more children or young adults that exclusively provides treatment services for children with emotional disorders.

(4356) Sanitize--The use of a product (usually a disinfecting solution) registered by the Environmental Protection Agency (EPA) that substantially reduces germs on inanimate objects to levels considered safe by public health requirements. Many bleach and hydrogen peroxide products are EPA-registered. You must follow the product's labelling instructions for sanitizing (paying particular attention to any instructions regarding contact time and toxicity on surfaces likely to be mouthed by children, such as toys and crib rails). For an EPA-registered sanitizing product or disinfecting solution that does not include labelling instructions for sanitizing (a bleach product, for example), you must conduct these steps in the following order: ~~A four-step process that must be followed in the subsequent order:~~

(A) Washing with water and soap;

- (B) Rinsing with clear water;
- (C) Soaking in or spraying on a disinfecting solution for at least two minutes. Rinsing with cool water only those items that a child is likely to place in his mouth; and
- (D) Allowing the surface or ~~item article~~ to air-dry.

(4457) School-age child--A child five years old or older who will attend school in August or September of that year.

(4558) Seat belt--A lap belt and any shoulder strap included as original equipment on or added to a motor vehicle.

(59) Seclusion--A type of emergency behavior intervention that involves the involuntary separation of a child from other residents and the placement of the child alone in an area from which the resident is prevented from leaving by a physical barrier, force, or threat of force.

(4660) Service plan--A plan that identifies a child's basic and specific needs and how those needs will be met.

(61) Short personal restraint--A personal restraint that does not last longer than one minute before the child is released.

(4762) State or local fire inspector--A fire official who is authorized to conduct fire safety inspections on behalf of the city, county, or state government.

(4863) State or local sanitation official--A sanitation official who is authorized to conduct environmental sanitation inspections on behalf of the city, county, or state government.

(4964) Substantial ~~physical injury~~ ~~bodily harm~~--Physical injury serious enough that a ~~reasonable prudent~~ person would conclude that the injury needs treatment by a medical professional, including dislocated, fractured, or broken bones; concussions; lacerations requiring stitches; second and third degree burns; and damages to internal organs ~~required professional medical attention~~. Evidence that physical injury is serious includes the location and/or severity of the bodily harm and/or age of the child. Substantial physical injury ~~It~~ does not include minor bruising, the risk of minor bruising, or similar forms of minor bodily harm that will resolve healthily without professional medical attention.

(65) Supplements--Includes vitamins, herbs, and any supplement labeled dietary supplement.

(66) Supine restraint--Placing a child in a chest up restraint hold.

(67) Swimming activities--Activities related to the use of swimming pools, wading/splashing pools, hot tubs, or other bodies of water.

(5068) Toddler--A child from 18 months through 35 months.

(69) Trafficking victim--A child who has been recruited, harbored, transported, provided or obtained for the purpose of forced labor or commercial sexual activity, including any child subjected to an act or practice as specified in Penal Code §20A.02 or §20A.03.

(70) Trauma informed care (TIC)--Care for children that is child-centered and considers the unique culture, experiences, and beliefs of the child. TIC takes into consideration:

(A) The impact that traumatic experiences have on the lives of children;

(B) The symptoms of childhood trauma;

(C) An understanding of a child's personal trauma history;

(D) The recognition of a child's trauma triggers; and
(E) Methods of responding that improve a child's ability to trust, to feel safe, and to adapt to changes in the child's environment.

~~(5471)~~ Treatment director--The person responsible for the overall treatment program providing treatment services. A treatment director may have other responsibilities and may designate treatment director responsibilities to other qualified persons.

~~(5272)~~ Universal precautions--An approach to infection control where all human blood and certain human bodily body fluids are treated as if known to be infectious for HIV, HBV, and other blood-borne pathogens.

(73) Unsupervised childhood activities--Childhood activities that a child in care participates in away from the operation and the caregivers. Childhood activities that an operation sponsors, conducts, or supervises are not unsupervised childhood activities. Unsupervised childhood activities may include playing sports, going on field trips, spending the night with a friend, going to the mall, or dating. Unsupervised childhood activities may last one or more days.

~~(5374)~~ Vaccine-preventable disease--A disease that is included in the most current recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

~~(5475)~~ Volunteer--A person who provides:

(A) Child-care services, treatment services, or programmatic services under the auspices of the operation without monetary compensation, ~~including a "sponsoring family;"~~ or

(B) Any type of services under the auspices of the operation without monetary compensation when the person has unsupervised access to a child in care.

~~(55) Water activities--Activities related to the use of splashing pools, wading pools, swimming pools, or other bodies of water.~~

~~(5676)~~ Young adult--An adult whose chronological age is between 18 and 22 years, who is currently in a residential child-care operation, and who continues to need child-care services.

Subchapter B, Definitions and Services

Division 2, Services

748.61. What types of services does Licensing regulate?

We regulate the following types of services:

(1) Child-Care Services--Services that meet a child's basic need for shelter, nutrition, clothing, nurture, socialization and interpersonal skills, care for personal health and hygiene, supervision, education, and service planning;

(2) Treatment Services--In addition to child-care services, a specialized type of child-care services designed to treat and/or support children:

(A) With Emotional Disorders; who have a current DSM-5 diagnosis, such as mood disorders, psychotic disorders, or dissociative disorders, and ~~who~~ demonstrate ~~three~~two or more of the following:

~~(i) A Global Assessment Functioning of 50 or below;~~

~~(ii) A current DSM diagnosis;~~

(iii) Major self-injurious actions, including ~~recent~~ a suicide ~~attempts~~attempt within the last 12 months;

(ivii) Difficulties that present a significant risk of harm to others, including frequent or unpredictable physical aggression; or

(viii) An additional primary DSM-5 diagnosis of substance-related and/or addictive disorder ~~abuse or dependency and with~~ severe impairment ~~because of the substance abuse~~;

(B) With a DSM-5 diagnosis of Intellectual Disability ~~Disabilities, who have an intellectual functioning of 70 or below and are~~ that is characterized by prominent, ~~significant~~severe deficits and pervasive impairment in one or more of the following areas:

(i) Conceptual, social, and practical adaptive skills to include daily living and self-care;

(ii) Communication, cognition, or expressions of affect;

(iii) Self-care activities or participation in social activities;

(iv) Responding appropriately to an emergency; or

(v) Multiple physical disabilities, including sensory impairments;

(C) With a DSM-5 diagnosis of Autism Spectrum Disorder ~~Pervasive Developmental Disorder, which is a category of disorders (e.g. Autistic Disorder or Rett's Disorder)~~ that is characterized by prominent, severe deficits and pervasive impairment in one or more of the following areas of development:

(i) Conceptual, social, and practical adaptive skills to include daily living and self-care;

(ii) Communication, cognition, or expressions of affect;

(iii) Self-care activities or participation in social activities;

(iv) Responding appropriately to an emergency; or

(v) Multiple physical disabilities including sensory impairments;

(D) - (E) (No change.)

(3) (No change.)

Helpful Information

Regarding subsection (2)(A), neither attending ~~therapy~~counseling nor taking a psychotropic medication factors into a child being eligible for treatment services for an emotional disorder. Only the indicators noted above are considered when determining eligibility for treatment services. However, you may offer treatment services to a child you assess as needing those services, regardless of the indicators above.

Regarding subsection (2)(B), a DSM-5 diagnoses of Intellectual Disability also requires a severity level (mild, moderate, severe, or profound). If a severity level is provided, the severity information may be helpful in determining whether the child is characterized by prominent, severe deficits and pervasive impairment.

Regarding subsection (2)(C), the Autism Spectrum Disorder includes previous DSM-IV diagnoses of autistic disorder, Asperger's disorder, pervasive development disorder-not otherwise specified, and similar disorders associated with a known medical or genetic

disorder (e.g. Rett's Disorder). This newly titled disorder is a single continuum of mild to severe (Levels 1 - 3) impairments in the two domains of social communication and restrictive repetitive behaviors/interests. A DSM-5 diagnosis does not mandate a severity level; however, if a severity level is provided, then the severity information may be helpful in determining whether the child is characterized by prominent, severe deficits and pervasive impairment.

748.65. What children are eligible to participate in a transitional living program?

~~(a) For a child to be eligible to participate in a transitional living program, the child must:~~
(1) Be 14 years old or older; and
(2) Not be receiving therapeutic camp services.

~~(b) For a child to be eligible to receive the level of caregiver supervision described in §748.1019 of this title (relating to What are the supervision requirements for a transitional living program?) or §748.1021 of this title (relating to When does a child who is in a transitional living program not need supervision?), the child must be 16 years old or older.~~

Subchapter C, Organization and Administration

DELETE Division 1, Permit Holder Responsibilities

DELETE §748.101. What are my responsibilities as the permit holder before I begin operating?

DELETE §748.103. What are my operational responsibilities as the permit holder?

DELETE §748.105. What responsibilities do I have for personnel policies and procedures?

DELETE §748.107. What must my conflict of interest policies include?

DELETE §748.109. May I exceed my operation capacity?

DELETE §748.111. May I provide child day care services?

NEW Division 1, Plans and Policies Required For the Application Process

NEW §748.101. What plans must I submit for Licensing's approval as part of the application process?

As part of the application process, you must submit the following plans to us for approval:

(1) An operation plan that includes:

(A) The location and telephone numbers of all of your general residential operations; and

(B) A list of persons or officers and their titles who comprise the governing body, if applicable;

(2) A fiscal plan that includes:

(A) A detailed estimate of the operating costs of the operation for the first three months;

(B) Documentation of reserve funds or available credit at least equal to operating costs for the first three months;

(C) An estimated 12-month budget of income and expenses; and

(D) Predictable funds sufficient for the first year of operation;

(3) A sketch of the operation's floor plan showing the dimensions and the purpose of all rooms and specifying where children and caregivers, if applicable, will sleep; and

(4) An emergency evacuation and relocation plan that complies with Division 6 of Subchapter O (relating to Emergency Evacuation and Relocation).

NEW §748.103. What policies and procedures must I submit for Licensing's approval as part of the application process?

(a) You must develop the policies and procedures identified in subsection (b) of this section. Your policies and procedures must comply with or exceed the minimum standards specified in this chapter, Chapter 42 of the Human Resources Code, and Chapter 745 of this title (relating to Licensing), and any other applicable law.

(b) As part of the application process, you must submit the following policies and procedures to us for our approval:

(1) Policies and procedures related to record keeping, including where the records will be located. The policies must be consistent with Subchapter D of this chapter (relating to Reports and Records Keeping);

(2) Personnel policies and procedures consistent with §748.105 of this title (relating to What are the requirements for my personnel policies and procedures?);

(3) Conflict of interest policies consistent with §748.107 of this title (relating to What must my conflict of interest policies include?);

(4) Admission policies consistent with §748.109 of this title (relating to What must my admission policies include?);

(5) Child-care policies consistent with §748.111 of this title (relating to What child-care policies must I develop?);

(6) Emergency behavior intervention policies consistent with §748.113 of this title (relating to What emergency behavior intervention policies must I develop if my operation is permitted to use emergency behavior intervention?);

(7) Discipline policies consistent with §748.115 of this title (relating to What are the requirements for my discipline policies for children in care?);

(8) Policies for a transitional living program, if applicable, consistent with §748.117 of this title (relating to What policies for a transitional living program must I develop?);

(9) Volunteer policies consistent with §748.119 of this title (relating to What policies must I develop if I use volunteers?);

(10) Abuse and neglect policies consistent with §748.121 of this title (relating to What abuse and neglect policies must I develop?);

(11) Employee policies and procedures that protect children from vaccine-preventable diseases. The policies must be consistent with §748.123 of this title (relating to What must an employee policy for protecting children from vaccine-preventable diseases include?);

(12) A weapons, firearms, explosive materials, and projectiles policy consistent with Division 6 of Subchapter Q (relating to Weapons, Firearms, Explosive Materials, and Projectiles); and

(13) A tobacco and e-cigarette policy consistent with §748.1661 of this title (relating to What policies must I enforce regarding tobacco products and e-cigarettes?).

NEW §748.105. What are the requirements for my personnel policies and procedures?

Your personnel policies and procedure must:

(1) Include an organizational chart showing the administrative, professional, and staffing structures and lines of authority;

(2) Include written job descriptions, including minimum qualifications and job responsibilities for each position;

(3) Include a written professional staffing plan that:

(A) Demonstrates that the number, qualifications, and responsibilities of professional positions, including the child-care administrator, are appropriate for the size and scope of your services and that workloads are reasonable enough to meet the needs of the children in care;

(B) Describes in detail the qualifications, duties, responsibilities, and authority of professional positions. For each position, the plan must show whether employment is on a full-time, part-time, or continuing consultative basis. For part-time and consulting positions, the plan must specify the number of hours and/or frequency of services;

(C) Documents your staffing patterns, including your child/caregiver ratios, hours of coverage, and plans for providing backup caregivers in emergencies; and

(D) Identifies, if you provide treatment services, your:

(i) Ability to have enough caregivers, including caregivers who are awake throughout the night to supervise children 24 hours a day, including frequent one-to-one monitoring whenever necessary to meet the needs of a particular child; and

(ii) Staffing patterns, including your child/caregiver ratios, hours of coverage, and plans for providing backup caregivers in emergencies;

(4) Include written training requirements for employees and caregivers;

(5) Include policies on whether your operation allows individual caregivers to take children away from the operation for day or overnight visits. The policy must require obtaining the parent's written approval prior to allowing overnight visits with staff. The policy must also address the issue outlined in §748.685(e) of this title (relating to What responsibilities does a caregiver have when supervising a child or children?);

(6) Comply with background check requirements outlined in Subchapter F of Chapter 745 of this title (relating to Background Checks);

(7) Require your employees to report serious incidents and suspected abuse, neglect, or exploitation. An employee who suspects abuse, neglect, or exploitation must

report their suspicion directly to us and may not delegate this responsibility, as directed by Texas Family Code §261.101(b);

(8) Require that all employees and consulting, contracting, and volunteer professionals who work with a child and others with access to information about a child be informed in writing of their responsibility to maintain child confidentiality; and

(9) Include either the model drug testing policy or a written drug testing policy that meets or exceeds the criteria in the model policy provided in §745.4151 of this title (relating to What drug testing policy must my residential child-care operation have?).

NEW §748.107. What must my conflict of interest policies include?

Your conflict of interest policies must include:

(1) A code of conduct on the relationship between your operation's owners (including members of the governing body, if applicable), employees, contract service providers, children in placement, and children's families, including required parameters for entering into independent financial relationships or transactions; and

(2) For corporations or other types of business entities, a statement that the majority of the voting members of the governing body must consist of persons who do not have a conflict of interest that would potentially interfere with objective decision making.

Persons who have such a conflict of interest include the following:

(A) Family members of:

(i) An officer of the governing body;

(ii) The administrator or executive director of the operation; or

(iii) Any person with a controlling interest in the entity's stock; or

(B) If the governing body is a non-profit entity, persons who benefit financially from the operation, including persons employed by or working at the operation, paid consultants, subcontractors, and vendors.

Helpful Information

The definition of "family members" is found at §748.43, and at the end of that rule a table outlining the family relationships for the related degrees of consanguinity and affinity.

NEW §748.109. What must my admission policies include?

Your admission policies must include a description of each program you offer, including:

(1) The program's goals and services provided, including whether the program accepts emergency admissions; and

(2) The characteristics of the population the program serves, such as gender, age range, behaviors, and diagnoses. If the program includes treatment services, your policy must describe the type of treatment services the program is designed to treat, including emotional disorders, intellectual disability, autism spectrum disorder, primary medical needs, or trafficking victim services.

NEW §748.111. What child-care policies must I develop?

You must develop policies that describe:

- (1) Visitation rights between the child and family members and the child and friends;
- (2) The child's right to correspond by mail with family members and friends, including any policies regarding mail restrictions and receipt of electronic messages and mail;
- (3) The child's right to correspond by telephone with family members and friends;
- (4) The child's right to receive and give gifts to family, friends, employees, or other children in care, including any restrictions on gifts;
- (5) How a child obtains clothing;
- (6) Personal possessions a child is or is not allowed to have, where the possessions may be stored, and search policies;
- (7) Emergency behavior intervention techniques if the use of emergency behavior intervention is permitted in your operation. The policy must be consistent with §748.113(5) of this title (relating to What emergency behavior intervention policies must I develop if my operation is permitted to use emergency behavior intervention?);
- (8) Any religious program or activity that you offer, including whether children must participate in the program or activity;
- (9) The plans for meeting the educational needs of each child;
- (10) When trips with caregivers away from the operation are allowed and what protocols will be used;
- (11) Program expectations and rules that apply to all children, including an overview of your discipline policy;
- (12) Child grievance procedures;
- (13) The types and frequency of reports to parents;
- (14) Procedures for routine and emergency diagnosis and treatment of medical and dental problems;
- (15) Routine health care relating to pregnancy and childbirth, if you admit and/or care for a pregnant child;
- (16) Your plan for providing health-care services to a child with primary medical needs;
- (17) Transitional living policies, if applicable; and
- (18) If applicable, how you will determine whether it is appropriate for a child to use weapons, firearms, explosive materials, and projectiles. This information must be consistent with §748.103(b)(12) of this title (relating to What policies and procedures must I submit for Licensing's approval as part of the application process?).

NEW §748.113. What emergency behavior intervention policies must I develop if my operation is permitted to use emergency behavior intervention?

At a minimum, you must develop emergency behavior intervention policies to implement the requirements in Subchapter N of this chapter (relating to Emergency Behavior Intervention). The policies must include the following:

- (1) A complete description of emergency behavior interventions that you permit caregivers to use;
- (2) The specific techniques that caregivers can use;

(3) The qualifications for caregivers who assume the responsibility for emergency behavior intervention implementation, including required experience and training, and an evaluation component for determining when a specific caregiver meets the requirements of a caregiver qualified in emergency behavior intervention. You must have an on-going program to evaluate caregivers qualified in emergency behavior intervention and the use of emergency behavior interventions;

(4) Your requirements for and restrictions on the use of permitted emergency behavior interventions;

(5) For the orientation required in §748.1209(b)(6) of this title (relating to What orientation must I provide a child?), how you will:

(A) Explain and document to a child in a manner that the child can understand:

(i) Who can use an emergency behavior intervention;

(ii) The actions a caregiver must first attempt to defuse the situation and avoid the use of emergency behavior intervention;

(iii) The situations in which emergency behavior intervention may be used;

(iv) The types of emergency behavior intervention you permit;

(v) When the use of an emergency behavior intervention must cease;

(vi) What action the child must exhibit to be released from the emergency behavior intervention;

(vii) The way to report an inappropriate emergency behavior intervention;

(viii) The way to provide voluntary comments during or after an emergency behavior intervention; and

(ix) The process for making written comments after an emergency behavior intervention, such as comments regarding the incident that led to the emergency behavior intervention, the manner in which a caregiver intervened, and the manner in which the child was the subject or to which they were a witness. You may create a standardized form that is easily accessible or give children the permission to submit comments on regular paper; and

(B) Obtain each child's input on preferred de-escalation techniques that caregivers can use to assist the child in the de-escalation process;

(6) That you will either:

(A) Post in a place where children and adult clients can view them, the emergency behavior interventions that you permit at your operation; or

(B) Provide the children and adult clients at admission a personal copy of the operation's emergency behavior intervention policies;

(7) Requirements that caregivers must attempt less restrictive and less intrusive emergency behavior interventions as preventive measures and de-escalating interventions to avoid the use of emergency behavior intervention;

(8) Training for emergency behavior intervention. The policy must include a description of the emergency behavior intervention training curriculum that meets the requirements in the rules of this chapter, the amount and type of training required for different levels of caregivers (if applicable), training content, and how the training will be delivered; and

(9) Prohibitions for discharging or otherwise retaliating against:

(A) An employee, child in care, adult client, resident, or other person for filing a complaint, presenting a grievance, or otherwise providing in good faith information relating to the misuse of emergency behavior intervention at the operation; or

(B) A child in care, adult client, or resident because someone on behalf of the client or resident files a complaint, presents a grievance, or otherwise provides in good faith information relating to the misuse of emergency behavior intervention at the operation.

NEW §748.115. What are the requirements for my discipline policies for children in care?

The discipline policies you develop for children in care must be consistent with Subchapter M of this chapter (relating to Discipline and Punishment). The discipline policies you develop must also:

(1) Guide caregivers and employees in the methods used for the discipline of children;

(2) Integrate trauma informed care into the care, treatment, and management of each child;

(3) Include measures for positive responses to appropriate behavior;

(4) Include the importance of nurturing behavior, stimulation, and promptly meeting the child's needs; and

(5) Include a statement that discipline of any type is not allowable for infants.

NEW §748.117. What policies for a transitional living program must I develop?

For operations who offer a transitional living program, you must develop policies that address the following:

(1) Criteria used to select participants for the program;

(2) Supervision of participants consistent with §748.1019 of this title (relating to What are the supervision requirements for a transitional living program?) and §748.1021 of this title (relating to When does a child who is in a transitional living program not need supervision?);

(3) Expected behaviors of participants and consequences for failure to comply;

(4) Training, education, and experiences to be achieved in the program; and

(5) Roles of participants, employees, contract staff, and caregivers.

NEW §748.119. What policies must I develop if I use volunteers?

If you use volunteers, you must develop policies that:

(1) Include job descriptions and/or responsibilities for the volunteers;

(2) Address qualifications, screening, and selection procedures for the volunteers;

(3) Address orientation and training programs for the volunteers;

(4) Address supervision of volunteers; and

(5) Address volunteer contact with children in care.

NEW §748.121. What abuse and neglect policies must I develop?

You must develop policies on preventing, recognizing, and responding to abuse and neglect of children, including:

- (1) Required annual training for employees;
- (2) Methods for increasing employee awareness of issues regarding child abuse and neglect, including warning signs that a child may be a victim of abuse or neglect;
- (3) Methods for increasing employee awareness of prevention techniques for child abuse and neglect;
- (4) Strategies for coordination between the operation and appropriate community organizations; and
- (5) Actions that the parent of a child who is a victim of abuse or neglect should take to obtain assistance and intervention.

NEW §748.123. What must an employee policy for protecting children from vaccine-preventable diseases include?

A policy for protecting the children in your care from vaccine-preventable diseases must:

- (1) Specify any vaccines that you have determined an employee must have for vaccine-preventable diseases based on the level of risk the employee presents to children by the employee's routine and direct exposure to children;
- (2) Require each employee to receive each specified vaccine that the employee is not exempt from having;
- (3) Include procedures for verifying whether an employee has complied with your policy;
- (4) Include procedures for an employee to be exempt from having a required vaccine because of:
 - (A) Medical conditions identified as contraindications or precautions by the Centers for Disease Control and Prevention (CDC); or
 - (B) Reasons of conscience, including a religious belief;
- (5) Include procedures that an exempt employee must follow to protect children in your care from exposure to disease, such as the use of protective medical equipment, including gloves and masks, based on the level of risk the employee presents to children by the employee's routine and direct exposure to children;
- (6) Prohibit discrimination or retaliatory action against an exempt employee, except that required use of protective medical equipment, including gloves and masks, may not be considered retaliatory action for purposes of this section;
- (7) Outline how you will maintain a written or electronic record of each employee's compliance with or exemption from your policy; and
- (8) State the disciplinary actions you may take against an employee who fails to comply with your policy.

NEW §748.125. What are the general requirements for my operation's policies and procedures?

- (a) The requirements for policies only apply to the operation's policies that are required or governed by this chapter.
- (b) All employees and caregivers must be aware of and follow your policies and procedures.

NEW §748.127. What requirements must I follow when adopting my operation's plans, policies, and procedures?

(a) Your operation's plans, policies, and procedures must indicate the date on which you adopted them and their effective date.

(b) You must formalize the adoption of your operation's plans, policies, and procedures as appropriate for your type of ownership:

(1) If you are a sole proprietor, you must sign them;

(2) If you are a partnership, each partner must sign them; or

(3) If you are a corporation or other type of business entity, the governing body must take a written action to adopt (sometimes this may be an order or the adoption may be included in the minutes of the governing body).

NEW §748.129. Can Licensing cite my operation for a deficiency if I fail to operate according to my approved plans, policies, and procedures?

Yes, if you violate plans, policies, or procedures, then we may cite the relevant standard in Division 1 of this Subchapter (relating to Plans and Policies Required for the Application Process) as a deficiency;

Helpful Information

- *Licensing only enforces plans, policies, and procedures required by the minimum standards. For example, Licensing does not enforce your policies on purchase approvals. In addition, Licensing will not cite this standard if you meet a specific minimum standard but do not meet your policy that requires more than the minimum standard. For example, if your policy requires caregivers to complete 12 hours of general pre-service training and inspection results indicate an employee only completed ten hours of training, we will not cite you for failing to meet your policy.*
- *If this chapter contains another relevant minimum standard, then that standard would be cited for failure to comply with a policy. For example and using the same example as above, if an employee only completed six hours of general pre-service training, we will cite §748.863(a)(1) because the minimum standards require eight hours of general pre-service training. However, if there isn't another relevant minimum standard, then we would cite the relevant standard in Division 1. For example, if your professional staffing plan became outdated, then we would cite §748.105(3).*

Subchapter C, Organization and Administration

DELETE Division 2, Governing Body

DELETE §748.131. What are the specific responsibilities of the governing body?

DELETE §748.133. After a permit has been issued, what subsequent information regarding my governing body must I provide to Licensing, and when must I provide it?

NEW Division 2, Operational Responsibilities and Notifications

NEW §748.151. What are my operational responsibilities?

While you are operating, you must:

- (1) Have a designated full-time child-care administrator who meets the minimum qualifications of §748.531 of this title (relating to What qualifications must a child-care administrator meet?);
- (2) Operate according to your approved plans, policies, and procedures;
- (3) Maintain current, true, accurate, and complete records;
- (4) Allow us to inspect your operation during its hours of operation;
- (5) Not offer unrelated types of services that conflict or interfere with the best interests of a child in care, a caregiver's responsibilities, or operation space. If you offer more than one type of service, you must determine and document that no conflict exists;
- (6) Maintain liability insurance as required by the Human Resources Code, §42.049; and
- (7) Prepare the annual budget and control expenditures and ensure compliance with Division 3 of this Subchapter (relating to General Fiscal Requirements).

Helpful Information

Regarding subsection (2), Licensing only enforces this requirement for plans, policies, and procedures required by the minimum standards. For example, Licensing does not enforce your policies on purchase approvals. In addition, Licensing will not cite this standard if you meet a specific minimum standard but do not meet your policy that requires more than the minimum standard. For example, if your policy requires caregivers to complete 12 hours of general pre-service training and inspection results indicate an employee only completed ten hours of training, we will not cite you for failing to meet your policy. But if an employee only completed six hours of training, we will cite you for a deficiency because the minimum standards require eight hours of general pre-service training.

NEW §748.153. What changes must I notify Licensing about regarding my operation?

You must provide written notification to your Licensing Representative:

- (1) As soon as possible, but at least 30 days before you:
 - (A) Change the legal structure of your operation or your governing body, if applicable;
 - (B) Move your operation to another location; or
 - (C) Change your operating hours;
- (2) As soon as possible, but at least 15 days before:
 - (A) You make changes to the policies and procedures required in §748.103(b) of this title (relating to What policies and procedures must I submit for Licensing's approval as part of the application process?);
 - (B) Changes are made to the operation's floor plan showing the dimensions and the purpose of all rooms and specifying where children and caregivers, if applicable, will sleep; and
 - (C) Construction begins on adding a swimming pool or other permanent body of water;
- (3) As soon as possible, but no later than two days after:

- (A) You change your child-care administrator;
 - (B) A new individual becomes a controlling person at your operation;
 - (C) An individual ceases to be a controlling person at your operation; or
 - (D) There is a significant change in the information we maintain about a controlling person, such as a name change or mailing address change; and
- (4) Within 24 hours of the child's placement, if you provide emergency care services and exceed capacity according to §748.155(b) of this title (relating to May I exceed my operation's capacity?).

Helpful Information

Licensing does not automatically approve an action when you provide the required notice to your Licensing Representative. Additional action may need to be taken by you or Licensing. For example, changing the legal structure of your operation may require a new license.

NEW §748.155. May I exceed my operation's capacity?

- (a) The number of children and young adults in your care must not exceed the capacity stated on your permit, except as described in subsection (b) of this section.
- (b) If you are licensed to provide emergency care services, you may temporarily exceed your licensed capacity for not more than 48 hours to provide temporary care for a child needing emergency care services.
- (c) For the purpose of determining whether you exceed your capacity, the number of children in your care includes a caregiver's own children who are at the operation, if they share general living space, bedroom, and/or bathroom space with children in care, and any children receiving respite child-care services at an operation providing emergency care services.

NEW §748.157. May I provide child day care services?

You may provide child day care services under the following conditions:

- (1) You don't provide treatment services to children with emotional disorders;
- (2) You care for and supervise children who receive day care services separately from the children receiving residential services; and
- (3) You have separate administrative employees and caregivers for each program.

Subchapter C, Organization and Administration
Division 3, General Fiscal Requirements

DELETE §748.161. What are my fiscal requirements?

DELETE §748.163. How often must I have a financial records review?

NEW §748.161. What are my fiscal requirements?

- (a) You must establish and maintain your operation on a sound fiscal basis, including

(1) Paying your employees timely; and

(2) Making sure the needs of children in care are being met.

(b) You must maintain complete financial records that comply with Generally Accepted Accounting Principles, including accounting for a child's money separately from the funds of your operation. You may not use a child's personal earnings, allowances, or gifts to pay for the child's room and board, unless such use is a part of the child's service plan and the child's parent approves it in writing. You must give or send the child's money to the child, parent, or next placement within 30 days of the child's discharge.

*Subchapter C, Organization and Administration
Division 4, Required Postings*

§748.191. What items must I post at my operation?

The items listed below must be posted in a prominent and publicly accessible place where employees, children, parents, and others may easily view them at all times:

(1) Your permit. An operation does not have to post its permit in its cottage homes, as long as it posts the permit at the main office location;

(2) The Licensing notice *Keeping Children Safe*; and

(3) Emergency and evacuation relocation plans posted in each building and living quarters used by children.

Subchapter C, Organization and Administration

DELETE Division 5, Policies and Procedures

DELETE §748.231. What are the general requirements for my operation's policies?

DELETE §748.233. What are the requirements for my admission policies?

DELETE §748.235. What child-care policies must I develop?

DELETE §748.237. What emergency behavior intervention policies must I develop if the use of emergency behavior intervention is permitted at my operation?

DELETE §748.239. What policies must I develop if I use volunteers?

DELETE §748.241. What must a policy for protecting children from vaccine-preventable diseases include?

Subchapter D, Reports and Record Keeping

Division 1, Reporting Serious Incidents and Other Occurrences

§748.301. What is a serious incident?

A serious incident is a non-routine occurrence that has or may have dangerous or significant consequences on the care, supervision, and/or treatment of a child. The different types of serious incidents are noted in §748.303 of this title (relating to When must I report and document a serious incident?).

§748.303. When must I report and document a serious incident?

(a) You must report and document the following types of serious incidents involving a child in your care. The reports must be made to the following entities, and the reporting and documenting must be within the specified time frames:

Serious Incident	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law enforcement? (ii) If so, when?
(1) A child dies while in your care.	(A)(i) YES (A)(ii) Report as soon as possible, but no later than 24 hours after the incident or occurrence. <u>Within 2 hours after the child's death.</u>	(B)(i) YES (B)(ii) Immediately <u>Within 2 hours after the child's death.</u>	(C)(i) YES (C)(ii) Immediately, <u>but no later than 1 hour after the child's death.</u>
(2) A critical <u>substantial physical</u> injury or <u>critical illness</u> that <u>a reasonable person would conclude needs warrants</u> treatment by a medical professional or hospitalization, including dislocated, fractured, or broken bones; concussions; lacerations requiring stitches; second and third degree burns; and damage to internal organs.	(A)(i) YES (A)(ii) Report as soon as possible, but no later than 24 hours after the incident or occurrence. <u>Note: For further clarification see "Helpful Information" at the end of this rule.</u>	(B)(i) YES (B)(ii) Report as soon as possible, but no later than 24 hours after the incident or occurrence. <u>Note: For further clarification see "Helpful Information" at the end of this rule.</u>	(C)(i) NO (C)(ii) Not Applicable.
(3) Allegations of abuse, neglect, or exploitation of a child; or any incident where there are indications that a child in care may have been	(A)(i) YES (A)(ii) As soon as you become aware of it.	(B)(i) YES (B)(ii) As soon as you become aware of it.	(C)(i) NO (C)(ii) Not applicable.

Serious Incident	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law enforcement? (ii) If so, when?
abused, neglected, or exploited.			
(4) Physical abuse committed by a child against another child. For the purpose of this subsection, physical abuse <u>occurs when there is substantial:</u> physical injury that results in substantial bodily harm and requiring emergency medical treatment , excluding any accident; or failure to make a reasonable effort to prevent an action by another person that results in <u>substantial</u> physical injury that results in substantial bodily harm to a child.	(A)(i) YES (A)(ii) As soon as <u>you become aware of</u> it possible, but no later than 24 hours after the occurrence or incident.	(B)(i) YES (B)(ii) As soon as <u>you become aware of</u> it possible, but no later than 24 hours after the occurrence or incident.	(C)(i) NO (C)(ii) Not applicable.
(5) Sexual abuse committed by a child against another child. For the purpose of this subsection, sexual abuse is: conduct harmful to a child's mental, emotional or physical welfare, including nonconsensual sexual activity between children of any age, and consensual sexual activity between children with more than 24 months difference in age or when there is a significant difference in the developmental level of the children; or failure to make a	(A)(i) YES (A)(ii) As soon as <u>you become aware of</u> it possible, but no later than 24 hours after the occurrence or incident.	(B)(i) YES (B)(ii) As soon as <u>you become aware of</u> it possible, but no later than 24 hours after the occurrence or incident.	(C)(i) NO (C)(ii) Not applicable.

Serious Incident	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law enforcement? (ii) If so, when?
reasonable effort to prevent sexual conduct harmful to a child.			
(6) A child is indicted, charged, or arrested for a crime, not including being issued a ticket at school by law enforcement or any other citation that does not result in the child being detained; <u>or when law enforcement responds to an alleged incident at the operation.</u>	(A)(i) YES (A)(ii) As soon as possible, but no later than 24 hours after you become aware of it.	(B)(i) YES (B)(ii) As soon as you become aware of it.	(C)(i) NO (C)(ii) Not applicable.
(7) A child developmentally or chronologically under 6 years old is absent from your operation and cannot be located, including the removal of a child by an unauthorized person.	(A)(i) YES (A)(ii) Within 2 hours of notifying law enforcement.	(B)(i) YES (B)(ii) Within 2 hours of notifying law enforcement.	(C)(i) YES (C)(ii) Immediately upon determining the child is not on the premises and the child is still missing.
(8) A child developmentally or chronologically 6 to 12 years old is absent from your operation and cannot be located, including the removal of a child by an unauthorized person.	(A)(i) YES (A)(ii) Within 2 hours of notifying law enforcement, if the child is still missing.	(B)(i) YES (B)(ii) Within 2 hours of determining the child is not on the premises, if the child is still missing.	(C)(i) YES (C)(ii) Within 2 hours of determining the child is not on the premises, if the child is still missing.
(9) A child 13 years old or older is absent from your operation and cannot be located, including the removal	(A)(i) YES (A)(ii) No later than <u>6</u> 24 hours	(B)(i) YES (B)(ii) No later than <u>6</u> 24 hours	(C)(i) YES (C)(ii) No later than <u>6</u> 24 hours

Serious Incident	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law enforcement? (ii) If so, when?
of a child by an unauthorized person.	from when the child's absence is discovered and the child is still missing. <u>However, you must report the child's absence immediately if the child has previously been alleged or determined to be a trafficking victim, or you believe the child has been abducted or has no intention of returning to the operation.</u>	from when the child's absence is discovered and the child is still missing. <u>However, you must report the child's absence immediately if the child has previously been alleged or determined to be a trafficking victim, or you believe the child has been abducted or has no intention of returning to the operation.</u>	from when the child's absence is discovered and the child is still missing. <u>However, you must report the child's absence immediately if the child has previously been alleged or determined to be a trafficking victim, or you believe the child has been abducted or has no intention of returning to the operation.</u>
(10) A child in your care contracts a communicable disease that the law requires you to report to the Department of State Health Services (DSHS) as specified in 25 TAC 97, Subchapter A, (relating to Control of Communicable Diseases).	(A)(i) YES, unless the information is confidential. (A)(ii) As soon as possible, but no later than 24 hours after you become aware of the	(B)(i) YES, if their child has contracted the communicable disease or has been exposed to it. (B)(ii) As soon as possible, but no later than 24 hours after you become aware of the	(C)(i) NO (C)(ii) Not applicable.

Serious Incident	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?	(i) To Law enforcement? (ii) If so, when?
	communicable disease.	communicable disease.	
(11) A suicide attempt by a child.	(A)(i) YES (A)(ii) As soon as you become aware of the incident.	(B)(i) YES (B)(ii) As soon as you become aware of the incident.	C)(i) NO (C)(ii) Not applicable.

(b) If there is a medically pertinent incident, such as a seizure, that does not rise to the level of a serious incident, you do not have to report the incident but you must document the incident in the same manner as a serious incident.

(c) If there is a serious incident involving an adult resident, you do not have to report the incident to Licensing, but you must document the incident in the same manner as a serious incident. You do have to report the incident to:

(1) Law enforcement, as outlined in the chart above;

(2) You also have to report the incident to the The parents, if the adult resident is not capable of making decisions about ~~his~~ the resident's own care; and

(3) Adult Protective Services through the Texas Abuse and Neglect Hotline if there is reason to believe the adult resident has been abused, neglected or exploited.

(ed) You must report and document the following types of serious incidents involving your operation, an employee, a professional level service provider, contract staff, or a volunteer to the following entities within the specified time frame:

Serious Incident	(i) To Licensing? (ii) If so, when?	(i) To Parents? (ii) If so, when?
(1) Any incident that renders all or part of your operation unsafe or unsanitary for a child, such as a fire or a flood.	(A)(i) YES (A)(ii) As soon as possible, but no later than 24 hours after the incident.	(B)(i) YES (B)(ii) As soon as possible, but no later than 24 hours after the incident.
(2) A disaster or emergency that requires your operation to close.	(A)(i) YES (A)(ii) As soon as possible, but no later than 24 hours after the incident.	(B)(i) YES (B)(ii) As soon as possible, but no later than 24 hours after the incident.

<p>(3) An adult who has contact with a child in care contracts a communicable disease noted in 25 TAC 97, Subchapter A (relating to Control of Communicable Diseases).</p>	<p>(A)(i) YES, unless the information is confidential.</p> <p>(A)(ii) As soon as possible, but no later than 24 hours after you become aware of the communicable disease.</p>	<p>(B)(i) YES, if their child has contracted the communicable disease or has been exposed to it.</p> <p>(B)(ii) As soon as possible, but no later than 24 hours after you become aware of the communicable disease.</p>
<p>(4) An allegation that a person under the auspices of your operation who directly cares for or has access to a child in the operation has abused drugs within the past seven days.</p>	<p>(A)(i) YES</p> <p>(A)(ii) Within 24 hours after learning of the allegation.</p>	<p>(B)(i) NO</p> <p>(B)(ii) Not applicable.</p>
<p>(5) An investigation of abuse or neglect by an entity (other than Licensing) of an employee, professional level service provider, <u>contract staff</u>, volunteer, or other adult at the operation.</p>	<p>(A)(i) YES</p> <p>(A)(ii) As soon as possible, but no later than 24 hours after you become aware of the investigation.</p>	<p>(B)(i) NO</p> <p>(B)(ii) Not applicable.</p>
<p>(6) An arrest, indictment, or a county or district attorney accepts an "Information" regarding an official complaint against an employee, professional level service provider, <u>contract staff</u>, or volunteer, <u>or other adult at the operation</u> alleging commission of any crime as provided in §745.651 of this title (relating to What types of criminal convictions may affect a person's ability to be present at an operation?); <u>or when law enforcement responds to an alleged incident to the operation.</u></p>	<p>(A)(i) YES</p> <p>(A)(ii) As soon as possible, but no later than 24 hours after you become aware of the situation.</p>	<p>(B)(i) NO</p> <p>(B)(ii) Not applicable.</p>

Helpful Information

Regarding subsection (a)(2), not every trip to a hospital or emergency clinic must be reported as a serious incident. Only those incidents involving a **critical** substantial

physical injury or critical illness" must be reported and documented as a serious incident. The ~~rule~~ definition of "substantial physical injury" contains some examples of reportable serious incidents. Visits to the emergency room or emergency clinic (that did not result in hospitalization) for a common illness such as the flu, for a chronic illness such as an asthma attack, or for a routine medical exam would not warrant reporting as a serious incident.

Also, it is the nature of the injury or illness that determines whether it is reportable as a serious incident, not the venue in which it is treated. Taking a child to the emergency clinic or doctor's office for stitches is still reportable as a serious incident, even though the treatment did not occur at an emergency room or hospital.

Regarding children receiving treatment services for primary medical needs, planned admissions to the hospital are not reportable as serious incidents. If the child sustains a ~~critical~~ substantial physical injury or contracts a critical illness, a serious incident report is required. However, ongoing treatment for the child's chronic illnesses or conditions is not reportable as a serious incident.

In addition, admission to a psychiatric hospital only warrants a serious incident report if the admission is precipitated by a reportable incident, such as a suicide attempt. The admission itself is not reportable as a serious incident.

DELETE §748.307. When must I report other occurrences?

§748.309. How do I make a report of a serious incident or occurrence to Licensing?

~~(a)~~ All serious incident reports must be made directly to the ~~Child~~ Texas Abuse and Neglect Hotline.

~~(b) Occurrences that are required to be reported to Licensing in writing must be forwarded to your Licensing representative (See §748.307(2) and (3) of this title (relating to When must I report other occurrences?)).~~

§748.313. What additional documentation must I include with a written serious incident report?

You must include the following additional documentation with a written serious incident report, as applicable:

Serious incident	Documentation
(1) Child death, suicide attempt, or a critical <u>substantial physical</u> injury, or a suicide attempt reportable under §748.303(a)(1), (2), and (11) of this title (relating to When must I report	Any emergency behavior interventions implemented on the child within 48 hours prior to the serious incident.

and document a serious incident?).	
(2) Any critical <u>substantial physical</u> injury reportable under §748.303(a)(2) of this title that resulted from a short personal restraint.	Documentation of the short personal restraint, including the precipitating circumstances and specific behaviors that led to the emergency behavior intervention.
(3) Child absent without permission.	(A) Any efforts made to locate the child; (B) The date and time you notified the parent(s) and the appropriate law enforcement agency and the names of the persons with whom you spoke regarding the child's absence and subsequent location or return to the operation; and (C) If the parent cannot be located, dates and times of all efforts made to notify the parent regarding the child's absence and subsequent location or return to the operation.
(4) Any abusive behavior among children <u>physical or sexual abuse committed by a child against another child</u> reportable under §748.303(a)(4) or (5) of this title.	The difference in size, age, and developmental level of the children involved in the abusive behavior <u>physical or sexual abuse</u> .

§748.315. Where How long must I keep my incident reports?

~~(a)~~ You must keep the incident reports on file at the operation for two years. The reports must be easily accessible to Licensing upon request.

~~(b) You must permit Licensing to make a copy of incident reports, as requested.~~

*Subchapter D, Reports and Record Keeping
Division 2, Operation Records*

DELETE §748.341. If I keep electronic records, what procedures must I have for those records?

NEW §748.341. What are the retention requirements for my operation's policies?

(a) You must maintain a copy of your policies and procedures at the operation. They must be available for review by employees, contract staff, caregivers, Licensing, or your clients, upon request.

(b) You must maintain copies of all current and previous policies for at least two years.

NEW §748.343. What policies and procedures must I have for protecting records?

You must have policies and procedures for:

(1) Protecting paper and electronic records from destruction and loss; and

(2) Clarifying the persons:

(A) Within your operation who are authorized to access records; and

(B) Outside of your operation who are authorized by law to have access to records.

NEW §748.345. What additional policies and procedures must I have for electronic records?

If you keep electronic records, you must develop policies and procedures in addition to the requirements in §748.343 of this title (relating to What policies and procedures must I have for protecting records?). These policies and procedures must address:

(1) What records must be in the external paper file and what records can be stored in the electronic file;

(2) Computer security systems, including confidentiality, passwords, and employee procedures to ensure the security of the system;

(3) Requirements for routine back-up of data;

(4) Anti-virus protection systems; and

(5) Limit access to your electronic files to persons within your operation authorized to see specific information in an electronic file.

NEW 748.347. Are electronic signatures allowed?

Yes, you may use electronic and digital signatures, including approvals by e-mail and electronic approvals.

*Subchapter D, Reports and Record Keeping
Division 3, Personnel Records*

§748.361. Where must I maintain personnel records?

(a) You must maintain all active personnel records at the operation. ~~This may include electronic records in §748.341 of this title (relating to If I keep electronic records, what procedures must I have for those records?).~~

(b) You must maintain archived personnel records at the operation and/or in a designated location, as long as they are available for our review within 48 hours.

(c) You may archive entire closed personnel records electronically.

(d) Your system for maintaining all personnel records must be uniform throughout the operation.

(e) You must maintain in the main office of the operation a master list of active and archived personnel records ~~and their~~ with a notation of the location of those records ~~in the main office of the operation.~~

§748.363. What information must the personnel record of an employee include?

For each employee, the personnel record must include:

(1) - (6) (No change.)

(7) A statement signed and dated by the employee documenting the employee has read a copy of the operational policies required by §748.103 of this title (relating to What policies and procedures must I submit for Licensing's approval as part of the application process?); ÷

~~(A) Operational policies; and~~

~~(B) Personnel policies;~~

(8) A statement signed and dated by the employee indicating ~~documenting~~:

~~(A) The the employee must immediately report any suspected incident of child abuse, neglect, or exploitation to the ChildTexas Abuse and Neglect Hotline and to the operation's administrator or administrator's designee; and~~

~~(B) The date the employee attended pre-service training in measures to prevent, identify, treat, and report suspected occurrences of child abuse (including sexual abuse), neglect, and exploitation, as required by §748.881(2) of this title (relating to What curriculum components must be included in the general pre-service training?);~~

(9) Proof of request for background checks required by Chapter 745, Subchapter F of this title (relating to Background Checks);

(10) For each person who transports a child, a copy of:

(A) The person's valid driver's license; or

(B) A driver's license check conducted through the Texas Department of Public Safety within the last 12 months;

(11) A record of training, including the date of the training, and the number of training hours, and the curriculum covered;

(12) Any documentation of the person's tenure ~~performance~~ with the operation; and

(13) The date and reason for the person's separation, if applicable.

Subchapter D, Reports and Record Keeping

Division 4, Child Records

§748.393. How must I maintain an active child record?

(a) You must keep active child records at the operation where the child is receiving services. This may include electronic records ~~per §748.341 of this title (relating to If I keep electronic records, what procedures must I have for those records?)~~.

(b) On an on-going basis, you must ensure that each child's record:

(1) Includes the child's full name and another method of identifying the child, such as a client number;

(2) Includes documentation of known allergies and chronic health conditions on the exterior of the child's record or in another place where the information is clearly visible to persons with access to the record, including a notation of "no known allergies" when applicable;

~~(3) Includes the date of each data entry and the name of the employee who makes the data entry;~~

~~(4)~~ Is kept accurate and current;

~~(5)~~ Is locked and kept in a safe location; and

~~(6)~~ Is kept confidential as required by law.

§748.395. How current must a child's record be?

All documentation must be in the record:

(1) No later than 30 days after the occurrence or event; or

~~(2) Within 15 days from the end of the month for monthly summaries; or~~

~~(3)~~ As otherwise specified in this chapter.

*Subchapter D, Reports and Record Keeping
Division 5, Record Retention*

DELETE §748.435. What procedures must I have for protecting records?

*Subchapter E, Personnel
Division 1, General Requirements*

DELETE §748.501. What must my written professional staffing plan include?

§748.505. What minimum qualifications must all employees meet?

(a) An employee's behavior or health status must not present a danger to children in care.

(b) Each employee ~~who is regularly or frequently present while children are in care~~ must:

(1) Meet the requirements in Subchapter F of Chapter 745 of this title (relating to Background Checks);

(2) Have a record of a tuberculosis screening showing the employee is free of contagious TB as provided in §748.1583 of this title (relating to Who must have a tuberculosis (TB) examination);

(3) Be physically, mentally, and emotionally capable of performing assigned tasks and have the skills necessary to perform assigned tasks; and

(4) Complete a notarized Licensing *Affidavit for Applicants for Employment* form, as specified in Human Resources Code, §42.059.

*Subchapter E, Personnel
Division 2, Child-Care Administrator*

§748.533. Can a child-care administrator be an administrator for two residential child-care programs?

(a) (No change.)

(b) An operation that provides emergency care services must designate an employee in the staffing plan that is solely responsible for administering those services. This employee must have the experience and background to be able to perform the child-care administrator responsibilities. See §748.535 of this title (relating to What responsibilities must the child-care administrator ~~designated to be responsible for the on-site administration of the operation~~ have?). A designated employee, other than the child-care administrator for the operation, is not required if the emergency care services program has a capacity of not more than 30 children.

§748.535. What responsibilities must the child-care administrator ~~designated to be responsible for the administration of the operation~~ have?

The child-care administrator must:

(1) Have daily supervision and overall administrative responsibility for the overall operation; and

- (2) Be responsible for or assign responsibility for:
- (A) Overseeing staffing patterns to ensure the supervision and the provision of child-care services that meet the needs of children in care;
 - (B) Ensuring the provision of planned but flexible program activities designed to meet the developmental needs of children;
 - (C) Having a system in place to ensure an employee is available to handle emergencies;
 - (D) Assigning tasks to caregivers that do not conflict or interfere with caregiver responsibilities;
 - (E) Administering and managing the operation according to ~~the~~your policies ~~adopted by the governing body~~;
 - (F) Ensuring that the operation complies with applicable rules of this chapter, Chapter 42 of the Human Resources Code, Chapter 745 of this title (relating to Licensing), and other applicable laws;
 - (G) Ensuring a child in care does not act as a caregiver; and
 - (H) Ensuring persons whose behavior or health status presents a danger to children are not allowed at the operation.

§748.539. Who must have overall administrative responsibility when the child-care administrator is absent on a frequent and/or extended basis?

- ~~(a) When the child-care administrator is absent on a frequent and/or extended basis, the~~ The child-care administrator must designate an employee that has a Child-Care Administrator's License to be responsible for the overall administration of the operation while the administrator is absent ~~on a frequent and/or extended basis~~.
- ~~(b) The designee must be a Licensed Child-Care Administrator as required in Chapter 43 of the Human Resources Code.~~

*Subchapter E, Personnel
Division 3, Professional Level Service Providers*

§748.563. What professional qualifications must a professional level service provider have in order to perform professional level service activities?

- (a) - (b) (No change.)
- (c) To provide services for any other children, a professional level service provider must have the following qualifications:

Options:	Educational qualifications:	Professional qualifications:
Option 4	(A) A master's degree or higher from an accredited college or university in social work or other human services field; and (B) Nine credit hours in graduate level courses that focus on family and individual function and interaction.	One year of documented full-time work experience in a residential child-care operation, or related field of child and family services.
Option <u>21</u>	A master's degree or higher from an accredited college or university; <u>or a</u>	Two years <u>One year</u> of documented full-time work

	<u>bachelor's degree from an accredited college or university in social work or other human services field.</u>	experience in a residential child-care operation, or related field of child and family services.
Option 3	A bachelor's degree from an accredited college or university in social work or other human services field.	Two years of documented full-time work experience in a residential child-care operation, or related field of child and family services.
Option 4 2	A bachelor's degree from an accredited college or university.	Three <u>Two</u> years of documented full-time work experience in a residential child-care operation, or related field of child and family services.

~~(d) A person who is a professional level service provider at your operation on or before the effective date of these rules may have the following qualifications in lieu of those set forth in subsection (c) of this section:~~

Options:	Educational qualifications:	Professional qualifications:
Option 1	A bachelor's degree from an accredited college or university.	No qualifications are needed if the professional level service provider is directly supervised by a service provider who meets one of the qualifications in subsection (a) or (c) of this section.
Option 2	Educational requirements for a Licensed Child-Care Administrator.	Child-Care Administrator's License.

§748.571. What are the responsibilities of a registered nurse at an operation that provides services to a child with primary medical needs?

The responsibilities of a registered nurse include:

- (1) Performing a nursing assessment of the child to include documentation of the child's diagnosed medical needs and selection of placement;
- (2) Leading the or participating in the service planning process for the child's care ~~including registered nurse delegation of tasks or exemption from the registered nurse delegation in compliance with 22 TAC, Chapters 224 and 225 of the Texas Board of Nurse Examiners rules;~~
- (3) Directing the health care training of unlicensed caregivers, such as care of a permanently placed feeding tube;
- (4) Ensuring non-mobile children are turned every two hours to increase circulation and to prevent bedsores or contractures, unless medical orders are to the contrary. This procedure must be documented in the child's record;
- (5) Reviewing medical records;
- (6) Contacting other professionals, as needed, for the child's care;

(7) On-site visits for nursing assessments and child record reviews, including compliance with written physician orders;

(8) Monitoring the implementation of the child's service plan; and

(9) Documenting outcomes for interventions used in the child's care.

§748.575. In what circumstances may a physician or registered nurse (including an advanced practice nurse) delegate nursing tasks to unlicensed caregivers?

The physician or registered nurse may delegate nursing tasks to unlicensed caregivers only if all delegation criteria are met for the task to be delegated, including, but not limited to:

(1) ~~Compliance with 22 TAC, Chapters 224 and 225 of the Texas Board of Nurse Examiners rules;~~

(2) The nursing task is one that a reasonable and prudent physician or registered nurse would find is within the scope of sound nursing judgment to delegate;

(3) The physician or registered nurse determines that the nursing task can be properly and safely performed by the unlicensed caregiver without jeopardizing the child's welfare;

(4) The operation employing or contracting with the unlicensed caregivers develops and follows a protocol, with input from a physician or registered nurse, for the instruction and training of unlicensed caregivers performing nursing tasks. The protocol must address:

(A) An established mechanism for identifying those individuals to whom nursing tasks may be designated;

(B) The manner in which the instruction addresses the complexity of the delegated task;

(C) The manner in which the unlicensed caregivers demonstrate the competency of the delegated task; and

(D) The mechanism for re-evaluation of the competency;

(5) The training protocol recognizes that the final decision as to what nursing tasks can be safely delegated in any specific situation is within the specific scope of the physician's or registered nurse's judgment; and

(6) A physician or registered nurse must instruct unlicensed caregivers in performing nursing tasks.

*Subchapter E, Personnel
Division 4, Treatment Director*

§748.605. What qualifications must a treatment director have?

(a) A treatment director that provides or oversees treatment services for children with ~~mental retardation~~ intellectual disabilities or children with autism spectrum disorder ~~pervasive developmental disorders~~ must be:

(1) Licensed as a psychiatrist, psychologist, professional counselor, clinical social worker, marriage and family therapist, or registered nurse; or

(2) Certified by the Texas Education Agency as an education diagnostician, have a master's degree in special education or a human services field, and have three years of

experience working with children with ~~mental retardation~~ intellectual disabilities or autism spectrum ~~a pervasive developmental~~ disorder.

(b) - (c) (No change.)

Subchapter E, Personnel

Division 5, Caregivers

§748.681. What minimum qualifications must a caregiver meet?

Each employee must meet the following qualifications before you can count the employee ~~him~~ in the child/caregiver ratio:

(1) Be at least:

(A) 18 years old if all the children in the group the caregiver serves are under 13 years old; or

(B) 21 years old if at least one child in the group the caregiver serves is 13 years old or older;

(2) Have either:

(A) A high school diploma or high school equivalency, such as a General Educational Development (GED) one of the following from a program recognized by the Texas Education Agency (TEA), the Texas Private School Accreditation Commission (TPSAC), or other similar a public educational entity from another state; or outside of Texas:

~~(A) High school diploma; or~~

~~(B) High school equivalency, such as a General Educational Development (GED); and~~

(B) Documentation to verify high school equivalency from home schooling. The documentation must adequately address basic competencies that would be otherwise met by a high-school diploma or a GED, including basic reading, writing, and math skills; and

(3) Be able to read, write, and communicate with co-workers, medical personnel, and other persons necessary to care for the child's needs.

Subchapter E, Personnel

Division 7, Contract Staff and Volunteers

§748.721. What are the requirements for a volunteer?

(a) You must maintain a personnel record for each volunteer.

(b) The personnel record must include a statement signed and dated by the volunteer indicating ~~he~~ the volunteer must immediately report any suspected incident of abuse, neglect, or exploitation to the ChildTexas Abuse and Neglect Hotline and the operation's administrator or administrator's designee. An internal reporting policy may not require or allow a person to delegate ~~the delegation of~~ the person's responsibility to report suspected abuse, neglect, or exploitation.

~~(c) If the volunteer provides short-term services through an agency or an organization, you must determine that the organization or agency's policies meet the intent of these rules before the volunteer can have contact with children.~~

NEW §748.724. When is a volunteer or contractor who is a part of another organization subject to my policies and procedures?

(a) A volunteer or contractor who is part of another organization is subject to your policies and procedures unless that organization provides screening, training, and supervision to the volunteer/contractor that are adequate to protect the health and safety of children. Before the volunteer/contractor can have contact with children:

(1) The volunteer/contractor must meet the relevant requirements of your policies and procedures; or

(2) You must confirm that the organization provides adequate screening, training, and supervision.

(b) An organization may be another licensed operation.

§748.725. Can a volunteer, a volunteer's family, or a sponsoring family take ~~Is a family or organization that invites~~ a child in care for an overnight or weekend visita "volunteer"?

(a) Yes, but when ~~When~~ a volunteer, a volunteer's family, or a sponsoring family ~~or organization~~ takes a child who is in care for an overnight or weekend visit, this is ~~not~~ a volunteer activity.

(b) Neither the volunteer nor the family would have to comply with employee or caregiver requirements, but:

(1) The volunteer and/or the family would have to meet the relevant background checks; and

(2) In order for a ~~volunteer or a family or organization~~ to take a child out of care for more than 48 hours, you must get written approval from the parent.

DELETE §748.727. Is a "sponsoring family" program a volunteer program?

§748.729. What must I do when a child in care visits a volunteer or sponsoring family for a day or overnight?

~~(a) If a child has a day or overnight visit with a volunteer, a volunteer's family, or sponsoring family, you must ensure that:~~

~~(1) The child is properly supervised, properly fed and hydrated, and provided with safe housing accommodations, if applicable;~~

~~(2) The child's health, safety, and well-being are protected;~~ and

~~(3) Prior to the visit, the person responsible for the child during the visit has to receive the same information that you as a respite child-care services provider would receive, as specified in §748.4265 of this title (relating to What information regarding a child must I receive prior to providing respite child-care services to that child?) ~~for emergency medical care, such as permission for emergency medical care, telephone numbers for the child's licensed physician(s), and medication and treatment information.~~~~

~~(4) Unless the volunteer is court-appointed, the volunteer must not remove the child from the operation for more than 48 hours without prior written approval of the child's parent.~~

~~(b) When a child who is not in your care invites a child who is in your care for an overnight or weekend visit, this is not a volunteer activity. You must get prior written approval from the parent to continue a visit for more than 48 hours.~~

DELETE §748.731. Can I use a volunteer that is on probation, parole, or referred for community service through the courts?

NEW §748.731. May a person perform community service hours at my operation?

A person may not perform community service hours at your operation. For the purposes of this rule, community service includes service a person must perform because the person is on probation, parole, or otherwise required to perform the service through the courts because of criminal activity.

*Subchapter F, Training and Professional Development
Division 1, Definitions*

§748.801. What do certain words and terms mean in this subchapter?

~~These~~The words and terms used in this subchapter have the following meanings ~~in this subchapter~~:

(1) ~~CEU--Continuing education unit.~~

(2) ~~CPR--Cardiopulmonary resuscitation.~~

(3) ~~(2) Hours--Clock hours.~~

(4) ~~(3) Instructor-led training--Training that is characterized by the communication and interaction that takes place between the student and the instructor~~ and. It must include an opportunity for the student to ~~timely~~ interact with the instructor to obtain clarifications and information beyond the scope of the training materials, ~~including answering. For such an opportunity to exist, the instructor must be able to answer~~ questions, ~~providing~~provide feedback on skills practice, ~~providing~~provide guidance or information on additional resources, and proactively ~~interacting~~interact with students. Examples of this type of training include classroom training, on-line distance learning, video-conferencing, or other group learning experiences.

(5) ~~(4) Self-instructional training--Training that is~~ designed to be used by one individual working alone and at ~~his~~ the individual's own pace to complete lessons or modules. An example ~~Examples~~ of this type of training ~~is include computer web-based training, written materials, or video training.~~ Self-study training is also a type of self-instructional training.

(5) Self-study training--Non-standardized training where an individual reads written materials, watches a training video, or listens to a recording to obtain certain knowledge that is required for annual training. Self-study training is limited to three hours, see 748.937(d) of this title (relating to What types of hours or instruction can be used to complete the annual training requirements?).

*Subchapter F, Training and Professional Development
Division 3, Pre-Service Experience and Training*

§748.861. What are the pre-service experience requirements for caregivers?

(a) If less than 25 children and less than 30% of your total population of children in care are receiving treatment services, then there are no pre-service experience requirements.

(b) If 25 or more children or 30% or more of your total population of children in care are receiving treatment services, then a caregiver must have 40 hours of supervised child-care experience in your operation and/or another operation that provides the same treatment services. Until the caregiver has met this ~~if the~~ 40-hour experience requirement ~~is not met, the caregiver:~~

(1) May not be assigned as the only caregiver responsible for a group of children;

(2) Must be supervised at all times by another caregiver who has already satisfied the 40-hour experience requirement; and ~~before you may assign the person as the only caregiver responsible for a group of children, the caregiver must have at least 40 total hours of supervised child-care experience from your operation and/or another operation that provides the same treatment services. Until the caregiver completes the supervised experience, an experienced caregiver must be physically available to supervise the caregiver at all times. The~~

(3) The supervised child-care experience must be documented in the appropriate personnel record.

§748.867. Must I provide pre-service training to a caregiver or an employee who has previously worked in an operation?

(a) A caregiver is exempt from completing the eight hours of general pre-service training if ~~he~~ the caregiver has been employed as a caregiver in a general residential operation ~~or residential treatment center~~ during the past 12 months.

(b) A caregiver or employee ~~working with children~~ does not have to complete the pre-service training regarding emergency behavior intervention if ~~he~~ the caregiver or employee:

(1) Has been employed by a general residential operation ~~or residential treatment center~~ during the past 12 months;

(2) Has received training during the past 12 months in the types of emergency behavior intervention used at your operation; and

(3) Can demonstrate knowledge and competency of the training material, both in writing and in physical techniques.

(c) You must document the exemption factors in the appropriate personnel record.

§748.869. What are the instructor requirements for providing pre-service training?

(a) The training must be instructor-led.

(b) A qualified instructor must deliver the pre-service training. A qualified instructor must hold a generally recognized credential or possess documented knowledge and/or experience relevant to the training the instructor will provide.

~~(b) The training must be instructor-led.~~

(c) A health-care professional or a pharmacist must provide training in administering psychotropic medication. The trainer must assess each participant after the training to ensure that the participant has learned the course content.

(d) To provide training in emergency behavior intervention the:

(1) Instructor must be certified in a recognized method of emergency behavior intervention, or be able to document knowledge of:

(A) The emergency behavior intervention;

- (B) The course material;
 - (C) Training delivery methods and techniques; and
 - (D) Training evaluation or assessment methods and techniques;
- (2) Training must be competency-based and require participants to demonstrate skill and competency at the end of the training.

Subchapter F, Training and Professional Development
Division 4, General Pre-Service Training

§748.883. ~~If your operation cares for children younger than two years old, what additional curriculum components must be included in the~~ What additional general pre-service training requirements are there for a caregiver who will care for children younger than two years old?

You must ensure that each caregiver who provides care ~~If your operation cares for~~ children younger than two years old receives, ~~the~~ general pre-service training on curriculum must also include the following components:

- (1) Recognizing and preventing shaken baby syndrome;
- (2) Understanding safe sleep environments and preventing ~~Preventing~~ sudden infant death syndrome; and
- (3) Understanding early childhood brain development.

§748.885. ~~For caregivers that administer psychotropic medication, what additional curriculum components must be included in the~~ What additional general pre-service training requirements are there for a caregiver that administers psychotropic medication?

Before a caregiver is permitted to administer psychotropic medication, you must ensure that each caregiver that administers psychotropic medication receives general pre-service training on: ~~the caregiver must be trained on administering medication. The training curriculum must include the following components:~~

- (1) Identification of psychotropic medications;
- (2) Basic pharmacology (the actions and side effects of, and possible adverse reactions to, various psychotropic medications);
- (3) Techniques and methods of administering medications;
- (4) Who is legally authorized to provide consent for the psychotropic medication; and
- (5) Any related policies and procedures.

Helpful Information

- The online psychotropic medication training of the Child Protective Services Division of DFPS satisfies this general pre-service training requirement as long as caregivers also get instructor-led training that covers:
 - Policies and procedures on administering medication; and
 - Who may consent to using psychotropic medications for children who are not in the conservatorship of DFPS.

*Subchapter F, Training and Professional Development
Division 6, Annual Training*

§748.935. When must a person complete the annual training?

- (a) Each person must complete the annual training:
- (1) Within 12 months from when you hire the person~~date of his employment~~; and
 - (2) During each subsequent 12-month period after the anniversary date of hire.
- (b) Alternatively, you have the option of prorating the person's annual training requirements from the date of ~~employment~~hire to the end of the calendar year or the end of the operation's fiscal year and then beginning a new 12-month period that coincides with the calendar or fiscal year.
- (c) The method for completing annual training requirements must be consistent throughout your operation.

§748.937. What types of hours or instruction can be used to complete the annual training requirements?

- (a) If the training complies with the other rules in this division (relating to Annual Training), annual training may include hours or ~~GEUs~~Continuing Education Units earned through:
- (1) Workshops or courses offered by local school districts, colleges or universities, or Licensing;
 - (2) Conferences or seminars;
 - (3) Self-instructional training, excluding training on emergency behavior intervention, ~~first-aid~~, and CPR;
 - (4) Planned learning opportunities provided by child-care associations or Licensing;
 - (5) Planned learning opportunities provided by a professional contract service provider, child-care administrator, professional level service provider, treatment director, or caregiver who meets minimum qualifications in the rules of this chapter; or
 - (6) Completed college courses for which a passing grade is earned, with three college credit hours being equivalent to 50 clock hours of required training. College courses do not substitute for required CPR or first-aid certification or required annual training on emergency behavior intervention or psychotropic medication.
- (b) For annual training hours, you may count:
- (1) The hours of annual training that a person received at another ~~general~~child-care residential operation ~~or residential treatment center~~, if the person:
 - (A) Received the training within the time period you are using to calculate the person's annual training; and
 - (B) Provides documentation of the training;
 - (2) Annual emergency behavior intervention training;
 - (3) First-aid and CPR training;
 - (4) ~~The~~Any hours of pre-service training that the person ~~earns~~earned in addition to the required pre-service hours, although you may not carry over more than 10 hours of a person's pre-service training hours for use as annual training hours during the upcoming year. ~~For example, if a person completes 24 hours of pre-service emergency~~

~~behavior intervention training, and is required to obtain 16 hours, that person may count eight of the hours toward annual training requirements;~~

(5) Half of the hours spent developing initial training curriculum that is relevant to the population of children served. No additional credit hours for training curriculum development are permitted for repeated training sessions; and

(6) One-fourth of the hours spent updating and making revisions to training curriculum that is relevant to the population of children served.

(c) For annual training hours, you may not count:

(1) Orientation training;

(2) ~~Required Pre-service~~ pre-service training;

(3) The hours involved in case staffings and conferences with the supervisor; or

(4) The hours presenting training to others.

(d) No more than ~~one-third~~ one-half of the required annual training hours may come from self-instructional training. No more than three of those self-instructional hours may come from self-study training.

(e) If a person earns more than the minimum number of training hours required during a particular year, the person can carry over to the next year a maximum of 10 training hours.

Helpful Information

Here are two examples to clarify (b)(4): (1) if a person completes a total of 35 hours of pre-service training and is required to complete a total of 18 hours of pre-service training, then that person may only carry over a maximum of 10 of the hours toward annual training requirements even though the person completed 17 extra hours of non-required, pre-service training; and (2) if a person completes a total of 35 hours of pre-service training and is required to complete a total of 26 hours of pre-service training, then that person may only carry over 9 hours toward the annual training requirements because the person completed 9 extra hours of non-required, pre-service training.

§748.939. Does Licensing approve training resources or trainers for annual training hours?

(a) No. We do not approve or endorse training resources or trainers for training hours.

(b) ~~However, you~~ You must, however, ensure the employees receive reliable training relevant to the population of children served.

(c) ~~Instructor-led training and self-instructional training, excluding self-study training, must include, which includes:~~

(1) Specifically stated learning objectives;

(2) A curriculum, which includes experiential or applied activities;

(3) An evaluation/assessment tool to determine whether the person has obtained the information necessary to meet the stated objectives; and

(4) A certificate, letter, or a signed and dated statement of successful completion from the training source.

§748.941. What are the instructor requirements for providing annual training?

(a) Except for transportation safety training, the annual training instructors must meet the same requirements in §748.869(a), (c) and (d) of this title (relating to What are the instructor requirements for providing pre-service training?).

(b) Transportation safety training must be instructor-led and provided by:

(1) - (6) (No change.)

§748.943. What areas or topics are appropriate for annual training?

Other than the mandated topics, annual~~Annual~~ training must be in areas appropriate to the needs of children for whom the operation or employee will be providing care, which may include:

- (1) Developmental stages of children;
- (2) Constructive guidance and discipline of children;
- (3) Fostering children's self-esteem;
- (4) Positive interaction with children;
- (5) Strategies and techniques for working with the population of children served;
- (6) Supervision and safety practices ~~for in the care of~~ children in care; ~~or~~
- (7) Preventing the spread of communicable diseases;
- (8) Water safety; or
- (9) Administration of medication.

Best Practice Suggestion

- A person should attempt to attend trainings in new topic areas every year or attend topics where the person believes there is a need for improvement or need for additional knowledge. A person should avoid attending the same training every year, unless there is a specific need for information regarding that topic.
- *Here are some examples of annual training topics:*
 - *Helping children cope with separation, such as from parents, family, and placement;*
 - *Helping or preparing children for re-integration into a family, community, or subsequent placement;*
 - *Stages of child development, including normal behavioral reactions to stress at the various ages of children served by the program;*
 - *Healthy personal boundaries and professional relationship boundaries;*
 - *Protecting self and others from false allegations;*
 - *Training to perform special tasks such as the care of gastric tubes or lifeguard certification training, if applicable;*
 - *For a caregiver who provides care to children receiving treatment services for emotional disorders, training on cognitive distortions and how they apply to the children; or*
 - *Special needs of children in care, which may include areas such as sexualized behavior, trauma, medical needs, and/or Autism Spectrum Disorder~~developmental disorders~~.*

§748.945. For a caregiver who administers ~~caregivers that administer~~ psychotropic medication, what annual training is required?

If you permit a caregiver to administer psychotropic medication:

- (1) ~~His~~The caregiver's annual training must meet the psychotropic medication training requirements in §748.885 of this title (relating to ~~For caregivers that administer~~

~~psychotropic medication, what additional curriculum components must be included in the~~ What additional general pre-service training requirements are there for a caregiver that administers psychotropic medication?); and

(2) ~~He~~ The caregiver must obtain the annual psychotropic medication training no later than 12 months after ~~his~~ the caregiver's last psychotropic medication training.

Helpful Information

- The online psychotropic medication training for the Child Protective Services Division of DFPS satisfies this annual training requirement as long as caregivers also get instructor-led training that covers:
 - Policies and procedures on administering medication; and
 - Who may consent to using psychotropic medications for children who are not in the conservatorship of DFPS.

§748.947. What annual training is required regarding emergency behavior intervention?

Best Practice Suggestion

Annual emergency behavior intervention training is not intended to be an exact replica of pre-service emergency behavior intervention training. While some review of previous content may be needed to ensure that caregivers retain necessary skills, you are expected and encouraged to use your emergency behavior intervention data to craft annual training that can most effectively improve the use of de-escalation techniques and emergency behavior interventions at your operation. This may include techniques caregivers can use to proactively avoid crisis situations and any necessary actions once all de-escalation attempts have failed.

*Subchapter F, Training and Professional Development
Division 7, First-Aid and CPR certification*

§748.985. Who can provide first-aid and CPR certification?

(a) The following may provide first-aid and CPR certification:

(1) The American Red Cross, American Heart Association, or a training program that has been approved by the local Emergency Medical Services Authority, or is offered through a local hospital; or

(2) A person with a current certification to provide the training.

(b) A caregiver may not obtain ~~first-aid or~~ CPR certification through self-instructional training.

§748.987. What must the ~~first-aid and~~ CPR training include?

(a) ~~First-aid and~~ CPR training/certification and re-certification must consist of a curriculum that includes both written and hands-on skill-based instruction, ~~practice (for CPR, the~~ practice is through the use of a CPR mannequin); and testing.

(b) CPR training/certification and recertification must include CPR for children and adults. For operations that care for infants and/or admit children with infants, the training must also include CPR for infants.

Subchapter G, Child/Caregiver Ratios

§748.1009. How many caregivers must I employ?

~~(a)~~ You must employ an adequate number of qualified caregivers to meet the needs of children, taking into account each child's age, medical, physical, and mental condition and other factors that affect the amount of supervision the child requires, including enough caregivers to meet:

(1) Child/caregiver ratios; and

(2) All of their responsibilities required in §748.685 of this title (relating to What responsibilities does a caregiver have when supervising a child or children?).

~~(b) If you provide treatment services, your professional staffing plan must identify your:~~

~~(1) Ability to have enough caregivers, including caregivers who are awake throughout the night to supervise children 24 hours a day, including frequent one-to-one monitoring whenever necessary to meet the needs of a particular child; and~~

~~(2) Staffing patterns, including your child/caregiver ratios, hours of coverage, and plans for providing backup caregivers in emergencies.~~

§748.1013. How does a caregiver care for a child needing constant supervision during sleeping hours?

(a) A caregiver must always be awake when caring for a child needing constant supervision, such as a medically fragile child or a child that is an immediate danger to ~~him~~self or others.

(b) To facilitate continuous care for a child, the caregiver may move a child to a location where the caregiver can directly and continuously supervise a child until there is no longer an immediate danger to ~~him~~self or others. The caregiver must provide comfortable sleeping arrangements for the child.

§748.1021. When does a child who is in a transitional living program not need supervision?

(a) The child must be 16 years old or older.

~~(b)~~ You must evaluate each child in a transitional living program to determine whether the child needs supervision. The evaluation must:

(1) Include a written plan defining the periods of time the child may be left unsupervised;

(2) Include a written plan for addressing behavioral problems that a child may have while in the transitional living program; and

(3) Identify how the child may contact the caregivers when caregivers are not physically present with the child, such as being available to the child by telephone or other means of contact.

~~(b)(c)~~ The child's service planning team must approve the evaluation.

(ed) You must document the evaluation of the child and the approval in the child's record. You must review and update the evaluation during the child's service planning meetings.

Subchapter H, Child Rights

DELETE §748.1101. What rights does a child in care have?

NEW §748.1101. What rights does a child in care have?

(a) A child's rights are cumulative of any other rights granted by law or other Licensing rules.

(b) The following categories include the child's rights that you must adhere to:

(1) Safety and care, including:

(A) The right to good care and treatment that meets the child's needs in the most family-like setting possible;

(B) The right to be free from abuse, neglect, and exploitation; and

(C) The right to fair treatment;

(2) Family contacts, including the right to maintain regular contact with the child's parents and siblings, unless restrictions are necessary because of the child's best interest, the decision of an appropriate professional, or a court order;

(3) Living a normal life, including:

(A) The right to be able to communicate in a language or any other means that is understandable to the child at admission or within a reasonable time after an emergency admission, if applicable, such as having a plan for an interpreter, having at least one person at the operation at all times who can communicate with the child in the child's own language, or other means to communicate with the child in the child's own language;

(B) The right to receive educational services appropriate to the child's age and developmental level;

(C) The right to have the child's religious needs met;

(D) The right to participate in childhood activities, including unsupervised childhood activities away from the operation and the caregivers, that are appropriate for the child's age, maturity, and developmental level;

(E) The right to privacy, including sending and receiving unopened mail, making and receiving phone calls, keeping a personal journal, and having visitors, unless the child's best interest, appropriate professionals, or court order necessitates restrictions;

(F) The right to personal care, hygiene, and grooming equipment and supplies and training in how to use them;

(G) The right to have comfortable clothing, which is suitable to the child's age and size and similar to the clothing of other children in the community. Teenagers should have reasonable opportunities to select the clothing;

(H) The right to clothing that protects the child against the weather;

(I) The right to have personal items in the child's room and to get additional items within reasonable limits;

(J) The right to personal space in the child's bedroom to store the child's clothes and belongings;

(K) The right to be informed of search policies and be free of unreasonable searches and unreasonable removal of personal items;

(L) Depending on the child's age and maturity, the right to seek employment, keep the child's own money, have a bank account in the child's name, and get paid for any work done for the operation as part of the child's service plan or vocational training, with the exception of assigned routine duties that relate to the child's living environment, such as cleaning the child's room, or other chores, or work assigned as a disciplinary measure;

(M) The right to consent in writing before taking part in any publicity or fund raising activity for the operation, including the use of the child's photograph;

(N) The right to refuse to make public statements showing gratitude to the operation; and

(O) The right to not be pressured to get an abortion, give up her child for adoption, or parent her child, if applicable;

(4) Discipline, including:

(A) The right to be free from any harsh, cruel, unusual, unnecessary, demeaning, or humiliating treatment or punishment. This means the child must not be:

(i) Shaken;

(ii) Subjected to or threatened with corporal punishment, including spanking or hitting the child;

(iii) Forced to do unproductive work that serves no purpose except to demean the child, such as moving rocks from one pile to another or digging a hole and then filling it in;

(iv) Denied food, sleep, a bathroom, mail, or family visits as punishment;

(v) Subjected to remarks that belittle or ridicule the child or the child's family;

(vi) Threatened with the loss of placement or shelter as punishment; and

(vii) Subjected to demeaning behavior to embarrass, control, harm, intimidate, or isolate the child. "Demeaning behavior" may include using physical force, rumors, threats, or inappropriate comments;

(B) The right to discipline that is appropriate to the child's age, maturity, and developmental level; and

(C) The right to have restrictions or disciplinary policies explained to the child at admittance and when the measures are imposed;

(5) Plans for the child while in care, including:

(A) The right to have a comprehensive service plan that addresses the child's needs, including transitional and discharge planning; and

(B) The right to actively participate in the development of the child's service plan within the limits of the child's comprehension and ability to manage the information. The child has the right to a copy or summary of the plan. A child 14 years of age or older has the right to review and sign the service plan, unless there is a reason not to provide the plan;

(6) Medical care and records, including:

(A) The right to medical, dental, vision, and mental health care and developmental services that adequately meet the child's needs. The right to request that the care or services be separate from adults (other than young adults) who are receiving services;

(B) The right to be free of unnecessary or excessive medication; and
(C) The right to confidential care and treatment, including keeping medical records and operation records private and only discussing them when it is about the child's care; and

(7) Complaints, including the right to make calls, reports, or complaints without interference, coercion, punishment, retaliation, or threats of punishment or retaliation. The child may make these calls, reports, or complaints anonymously. Depending upon the nature of the complaint, the child has the right to call, report, or complain to:

(A) The DFPS Texas Abuse/Neglect Hotline at 1-800-252-5400;

(B) The HHSC Ombusman for Children and Youth Currently in Foster Care at 1-844-286-0769;

(C) The DFPS Office of Consumer Affairs at 1-800-720-7777; or

(D) Disability Rights of Texas at 1-800-252-9108.

§748.1103. How must I inform a child and the child's parents of their rights?

(a) - (c) (No change.)

(d) The person you are informing of the child's rights must sign a statement indicating that the person has read and understands these rights. A copy of a timely signed "CPS Rights of Children and Youth in Foster Care" will meet this standard. You must put the signed copy in the child's record.

DELETE §748.1105. What provisions must I make for a child's personal care?

§748.1109. What right does a child have regarding contact with siblings?

(a) - (b) (No change.)

(c) When you restrict sibling contact, you must include justification in the child's record~~service plan and service plan reviews and updates.~~ Restrictions imposed by you that continue for more than 60 days must be re-evaluated every 60 days by a professional level service provider, who also must:

(1) Explain the reasons for the continued restrictions to the child; and

(2) Document the reasons in the child's record.

~~If a restriction imposed by you lasts more than 90 days, you must document the justification for continuing the restriction in the child's record at least every 90 days.~~

(d) (No change.)

§748.1117. What must I document regarding a search?

You must document the following in the child's record when you conduct a search under §748.1113(b) of this title (relating to Under what circumstances may I conduct a search for prohibited items or items that endanger a child's safety?):

(1) - (8) (No change.)

(9) The resolution of the issue with the child, including increased supervision, additional ~~therapy~~counseling, or disciplinary consequences.

§748.1119. What techniques am I prohibited from using on a child?

~~You may not use any of the following~~Certain techniques must not be used on a child, including:

(1) - (6) (No change.)

Subchapter I, Admission, Service Planning, and Discharge
Division 1, Admission

§748.1205. What information must I document in the child's record at admission?

(a) You must include the following in the child's record at the time of admission:

- (1) The child's name, gender, race, religion, and date of birth, ~~and birthplace~~;
 - (2) ~~Court orders establishing who is the managing conservator for the child, if applicable~~;
 - (~~3~~) The name, address, and telephone number of the managing conservator, the primary caregivers for the child, any person with whom the child is allowed to leave the operation, and any other individual who has the legal authority to consent to the child's medical care;
 - (~~4~~3) The names, addresses, and telephone numbers of biological or adoptive parents, unless parental rights have been terminated;
 - (~~5~~4) The names, addresses, and telephone numbers of siblings;
 - (~~6~~5) The date of admission;
 - (~~7~~6) Medication the child is taking;
 - (~~8~~7) The child's immunization record;
 - (~~9~~8) Allergies, such as food, medication, sting, and skin allergies;
 - (~~10~~9) Chronic health conditions, such as asthma or diabetes;
 - (~~11~~10) Known contraindications to the use of restraint;
 - (~~12~~11) Identification of the child's treatment needs, if applicable, and any additional treatment services or programmatic services the child is receiving;
 - (~~13~~12) Identification of the child's high-risk behavior(s), if applicable, and the safety plan staff and caregivers will implement related to the behavior(s);
 - (~~14~~13) A copy of the placement agreement, if applicable; and
 - (~~15~~14) Documentation of the attempt to notify the parent of the child's location as required by §748.1211(c)(~~3~~) of this title (relating to What information must I share with the parent at the time of placement?), if applicable.
- (b) - (c) (No change.)

§748.1207. What is a placement agreement?

(a) A placement agreement is your agreement with a child's parent or the child that defines your roles and responsibilities and authorizes you to obtain or provide services for the child. The placement agreement must include:

- (1) Authorization permitting you to care for the child;
- (2) A medical consent form signed by a person authorized by the Texas Family Code to provide consent; and
- (3) The reason for placement and anticipated length of time in care.

(b) A placement agreement must be signed by the child's parent, except as provided in subsection (c).

(c) For a transitional living program, a child 16 years of age or older may sign the placement agreement on the child's own behalf, as provided in the Texas Family Code §32.203, without the consent of the child's parent if the child:

(1) Resides separate and apart from the child's parent and manages the child's own financial affairs;

(2) Is unmarried and pregnant; or

(3) Is unmarried and a parent.

§748.1209. What orientation must I provide a child?

(a) Within seven days of admission, you must provide orientation to each newly admitted child who is five years old or older. You must gear orientation to the intellectual level of the child.

(b) Orientation must include information about your policies on the following:

(1) Visitation, including family visitation and overnight visitation;

(2) Mail;

(3) Telephone calls;

(4) Gifts;

(5) Personal possessions, including any limits placed on the possessions the child may or may not have;

(6) Emergency behavior intervention, including your policies and practices on the use of personal restraint and the child's input on preferred de-escalation techniques that caregivers can use to assist the child in the de-escalation process;

(7) Discipline;

(8) The religious program and practices;

(9) The educational program;

(10) Trips away from the operation;

(11) Program expectations and rules;

(12) A general daily schedule for routine activities for children in care; and

(13) Internal Grievance grievance procedures.

(c) Orientation must include information on how to:

(1) Make complaints to outside agencies; and

(2) Contact parties to a child's case (i.e. caseworker, attorney ad litem, guardian ad litem, CASA worker, etc.).

(d) You must document in the child's record when the orientation occurred, any items that the orientation did not include, and the reason that the orientation did not include that item.

§748.1211. What information must I share with the parent at the time of placement?

~~(a) The parent must be able to determine whether your program and/or practices are appropriate for the child and can meet the child's needs.~~

(a) At admission, you must provide the following policies to the parent placing the child:

(1) Fee policies;

(2) Emergency behavior intervention policies;

(3) Discipline policies; and

(4) Any other policies required by us, upon request of the parent.

(b) At admission, you must ~~review and~~ provide and explain the following written information and policies ~~materials~~ to the parent placing the child ~~that explain~~:

(1) Information about the policies that you would present a child during orientation;

- (2) Your policies regarding the:
- (A) Use of volunteers or sponsoring families, if applicable;
 - (B) Type and frequency of notifications made to parents; and
 - (C) Involvement of the child in any publicity and/or fund raising activity for the operation; and
- (3) ~~The~~ Information about the parent's right to refuse to or withdraw consent for a child to participate in:
- (A) Research programs; and/or
 - (B) Publicity and/or fund raising activities for the operation.
- (c) If you sign a placement agreement for a transitional living program with a child as specified in §748.1207 of this title (relating to What is a placement agreement?), then you:
- (1) Must share the policies noted in subsection (a) with the child, instead of the parent;
 - (2) Do not have to comply with subsection (b), but you must provide and explain to the child your policies regarding the:
 - (A) Use of volunteers or sponsoring families, if applicable;
 - (B) Involvement of the child in any publicity and/or fund raising activity for the operation; and
 - (C) Child's right to refuse to or withdraw consent to participate in:
 - (i) Research programs; and/or
 - (ii) Publicity and/or fund raising activities for the operation; and
 - (3) You must ~~Must~~ attempt to notify the child's parent ~~of a child you admit to a transitional living program~~ of the child's location, if the child was admitted without the consent of the parent, ~~as provided in Texas Family Code §32.203.~~

§748.1213. What information must I provide caregivers when I admit a child?

- (a) By the day you admit the child for care, you must provide the caregivers responsible for the child's care with information about the child's immediate needs, such as enrolling the child in school or obtaining needed medical care or clothing.
- (b) You must inform appropriate caregivers of any special needs, such as medical or dietary needs or conditions or supervision needs, and document that you shared the information with the caregiver.

§748.1215. When must I complete the admission assessment?

- (a) You must complete a non-emergency admission assessment prior to admission. ~~according to the time frames required in §748.1217 of this title (relating to What information must an admission assessment include?). For an emergency admission assessment, see §748.1269 of this title (relating to For an emergency admission, when must I complete all of the requirements for an admission assessment?).~~
- (b) A professional level service provider must sign and date each assessment, which must be in the child's record.

§748.1217. What information must an admission assessment include?

- (a) An admission assessment must provide an initial evaluation of the appropriate placement for a child, and ensure that you obtain the information necessary for you to facilitate service planning.
- (b) Prior to a child's non-emergency admission, an admission assessment must be completed which includes:
- (1) The child's legal status;
 - (2) A description of the circumstances that led to the child's referral for substitute care;
 - (3) A description of the child's behavior, including appropriate and maladaptive behavior, and any high-risk behavior ~~posing a risk to self or others~~;
 - (4) Any history of physical, sexual, or emotional abuse or neglect;
 - (5) Current medical and dental status, including the available results of any medical and dental examinations;
 - (6) Current mental health and substance abuse status, including available results of any psychiatric evaluation, psychological evaluation, or psychosocial assessment ~~or psychiatric examination~~;
 - (7) The child's current developmental level of functioning;
 - (8) The child's current educational level and any school problems;
 - (9) Any applicable requirements of §748.1219 of this title (relating to What are the additional admission assessment requirements when I admit a child for treatment services?);
 - (10) Documentation indicating efforts made to obtain any of the information in paragraphs (1)-(9) of this subsection, if any information is not obtainable;
 - (11) The services you plan to provide to the child;
 - (12) Immediate goals of placement;
 - (13) The parent's expectations for placement, duration of the placement, and family involvement;
 - (14) The child's understanding of the placement; and
 - (15) A determination of whether and how you can meet the ~~immediate~~ needs of the child; ~~and~~
~~(16) A rationale for the appropriateness of the admission.~~
- (c) Prior to completing a child's initial service plan, the following information must be added to the admission assessment:
- (1) The child's social history. The history must include information about past and existing relationships with the child's birth parents, siblings, extended family members, and other significant adults and children, and the quality of those relationships with the child;
 - (2) A description of the child's home environment and family functioning;
 - (3) The child's birth and neonatal history;
 - (4) The child's developmental history;
 - (5) The child's mental health and substance abuse history;
 - (6) The child's school history, including the names of previous schools attended and the dates the schools were attended, grades earned, and special achievements;
 - (7) The child's history of any other placements outside the child's home, including the admission and discharge dates and reasons for placement;
 - (8) The child's criminal history, if applicable;

- (9) The child's skills and special interests;
 - (10) Documentation indicating efforts made to obtain any of the information in paragraphs (1) - (9) of this subsection, if any information is not obtainable;
 - (11) The services you plan to provide to the child, including long-range goals of placement;
 - (12) Recommendations for any further assessments and testing;
 - (13) A recommended behavior management plan; and
 - (14) A determination of whether and how you can meet the needs of the child, based on an evaluation of the child's special strengths and needs; ~~and~~
 - ~~(15) A rationale for the appropriateness of the admission.~~
- (d) You must attempt to obtain a signed authorization, so you can subsequently request in writing materials from the child's current or most recent placement, such as the admission assessment, professional assessments, and the discharge summary. You must consider information from these materials when you complete your admission assessment if they are made available to you.
- (e) This rule does not apply to children receiving emergency care services. See §748.4231 of this title (relating to What information must an admission assessment include for a child needing emergency care services, including respite child-care services?).

§748.1219. What are the additional admission assessment requirements when I admit a child for treatment services?

When you admit a child for treatment services, you must do the following as applicable:

If:	Then:
(1) You intend to provide treatment services for a child with an emotional disorder or <u>autism spectrum pervasive development</u> disorder	<p>(A) The admission assessment must include a written, dated, and signed:</p> <ul style="list-style-type: none"> (i) Psychiatric evaluation or psychological evaluation, including the child's diagnosis; or (ii) Psychosocial assessment as defined in §748.43(40) of this title (relating to What do certain words and terms mean in this chapter?). <p>(B) A psychiatric evaluation, psychological evaluation, or psychosocial assessment must have been completed within:</p> <ul style="list-style-type: none"> (i) 14 months of the date of admission, if the child is coming from another regulated placement; or (ii) Six months of the date of admission, if the child is not coming from another regulated placement. <p>(C) The admission assessment must include the reason(s) for choosing treatment services for the child.</p> <p>(D) The admission assessment must include consideration given to any history of inpatient or outpatient treatment.</p>
(2) You intend to provide treatment services for a child	<p>(A) The admission assessment must include a written, dated, and signed:</p> <ul style="list-style-type: none"> (i) Psychological evaluation with psychometric testing.

<p>with <u>an intellectual disability</u> disabilities</p>	<p><u>including the child's diagnosis</u>; or</p> <p>(ii) Psychosocial assessment as defined in §748.43(40) of this title.</p> <p>(B) A psychological evaluation or psychosocial assessment must be completed within 14 months of the date of admission.</p> <p>(C) A psychological evaluation must:</p> <p>(i) Be performed by a licensed psychologist who has experience with intellectual disabilities or published scales;</p> <p>(ii) Include the use of standardized tests to determine the intellectual functioning of a child. The test results must be documented in the evaluation;</p> <p>(iii) Determine and document the child's level of adaptive functioning; and</p> <p>(iv) Indicate manifestations of <u>an intellectual disability</u> disabilities as defined in the Diagnostic and Statistical Manual of Mental Disorders 5 (DSM-5).</p> <p>(D) The admission assessment must include the reason(s) for choosing treatment services for the child.</p> <p>(E) The admission assessment must include consideration given to any history of inpatient or outpatient treatment.</p>
<p>(3) You intend to provide treatment services for a child with primary medical needs</p>	<p>(A) The admission assessment must have a licensed physician's signed, written orders as the basis for the child's admission. The physician's <u>An evaluation from a health care professional</u> must confirm that the child can be cared for appropriately in a <u>general</u> residential child-care operation.</p> <p>(B) The written orders <u>and/or hospital discharge</u> must include orders for:</p> <p>(i) Medications;</p> <p>(ii) Treatments;</p> <p>(iii) Diet;</p> <p>(iv) Range-of-motion program at stated intervals;</p> <p>(v) Habilitation, as appropriate; and</p> <p>(vi) Any special medical or developmental procedures.</p> <p>(C) The admission assessment must include the reason(s) for choosing treatment services for the child.</p> <p>(D) The admission assessment must include consideration given to any history of inpatient or outpatient treatment.</p>
<p>(4) The child's behavior and/or history within the last two months indicates that the child is an immediate danger to himself <u>self</u> or others</p>	<p>(A) The admission assessment must include a written, dated, and signed:</p> <p>(i) Psychiatric evaluation or psychological evaluation, <u>including the child's diagnosis</u>; or</p> <p>(ii) Psychosocial assessment as defined in §748.43(40) of this title.</p> <p>(B) A psychiatric evaluation or psychological evaluation must include:</p>

	<p>(i) The child's diagnosis, if applicable;</p> <p>(ii) An assessment of the child's needs and potential danger to himself or others; and</p> <p>(iii) Recommendations for care, treatment, and further evaluation. If the child is admitted, the recommendations must become part of the child's plan of service <u>plan</u> and must be implemented.</p> <p>(C) A psychiatric evaluation, psychological evaluation, or psychosocial assessment must have been completed within:</p> <p>(i) 14 months of the date of admission, if the child is coming from another regulated placement; or</p> <p>(ii) Six months of the date of admission, if the child is not coming from another regulated placement.</p> <p>(D) You must then evaluate your ability to provide services and safeguards appropriate to the child's needs, including direct and continuous supervision, if needed.</p>
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§748.1223. What are the medical requirements when I admit a child into care?

- (a) You must ensure that the child has a medical examination by a health-care professional within 30 days after the date of admission. This exam is not required if you have documentation that the child has had a medical examination within the past year, including documentation in the child's health passport if ~~he~~the child is in ~~DFPS~~the department's conservatorship.
- (b) - (d) (No change.)

§748.1225. What are the dental requirements when I admit a child into care?

- (a) If the child is younger than three years old and a health-care professional ~~physician~~ recommends a dental examination, then you must ensure that a dentist examines the child.
- (b) A child three years old or older must have a dental appointment scheduled with a dentist within 30 days after the date of admission, and the examination must occur within 90 days after the date of admission. A dental examination is not required if you have documentation that the child has had a dental examination within the past year, including documentation in the child's health passport if ~~he~~the child is in ~~DFPS~~department's conservatorship.
- (c) (No change.)

*Subchapter H, Admission, Service Planning, and Discharge
Division 2, Emergency Admission*

§748.1263. What constitutes an emergency admission to my operation?

It is an emergency admission if ~~You may admit a child on an emergency basis if the child:~~

- (1) You must place the child within 72 hours;
- (2) ~~is being~~The child was removed from a situation involving alleged abuse or neglect;

(23) Is The child is an alleged perpetrator of abuse and cannot be served in the child's current placement due to ~~his~~the child's perpetrating behaviors;

(34) ~~Displays~~The child displays behavior that is an immediate danger to ~~himself~~self or others and cannot function or be served in his current setting;

(45) ~~Is~~The child was abandoned and after exercising reasonable efforts, the child's identity cannot be immediately determined. ~~The~~You must document the efforts made to obtain information on the child's identity ~~must be documented~~ in the child's record;

(56) ~~Is~~The child was removed from ~~his~~the child's home or placement, and there is an immediate need to find a residence for the child;

(67) ~~Is~~A law enforcement officer or juvenile probation officer released the child to your authorized emergency care program ~~by a law enforcement or juvenile probation officer~~; or

(78) ~~Is~~The child is otherwise without adult care.

§748.1269. For an emergency admission, when must I complete all of the requirements for an admission assessment?

(a) For an emergency admission, you must complete all of the requirements (see Division 1 of this subchapter (relating to Admissions)) for an admission assessment within 40 days from the date of the child's admission.

(b) In an emergency admission of a child receiving treatment services, the child must not continue in care for more than 30 days after the date of admission or 10 days after the date of admission for a residential treatment center, unless the child has received the ~~psychological,~~ psychiatric evaluation, psychological evaluation, psychosocial assessment, psychometric, or physician's medical evaluation that is required by §748.1219 of this title (relating to What are the additional admission assessment requirements when I admit a child for treatment services?), and the evaluation or assessment indicates manifestations of the disorder requiring treatment services. All evaluations and assessments must be signed, dated, and documented in the child's record.

Subchapter I, Admission, Service Planning, and Discharge Division 3, Educational Services

§748.1303. What responsibilities do I have for a child's individual educational needs?

You must:

(1) Review report cards and other information received from teachers or school authorities with the child and provide necessary information to caregivers;

(2) Counsel and assist the child regarding adequate classroom performance;

(3) Permit, encourage, and make reasonable efforts to involve the child in extracurricular activities to the extent of the child's interests and abilities and in accordance with the child's service plan;

(4) Provide a quiet, well-lighted space for the child to study and allow regular times for homework and study;

(5) Know what emergency behavior interventions are permitted and being used with the child;

(6) Let the parent know that an ~~Request~~ IEP (Individual Education Plan) meeting should be requested ~~meetings~~ if you are concerned with the child's educational program or if the child does not appear to be making progress; and

(7) Attend IEP meetings and other school staffings and conferences, if requested by the parent, to represent the child's educational best interests, including the child being evaluated for and provided with related services needed to benefit from educational services, and positive behavior supports designed to decrease the need for negative disciplinary techniques or interventions.

*Subchapter I, Admission, Service Planning, and Discharge
Division 4, Service Plans*

§748.1331. What are the requirements for a preliminary service plan?

(a) You must complete a preliminary service plan that addresses the immediate needs of the child within 72 hours, such as supervision requirements, enrolling the child in school, or obtaining needed medical care or clothing, ~~within 72 hours of the child's admission.~~

(b) In addition, for a child receiving treatment services the preliminary service plan must include

(1) A description of the child's immediate treatment and care needs;

(2) A description of the child's immediate, educational, medical, and dental needs, including possible side effects of medications or treatment prescribed to the child;

(3) A description of how you will meet the child's needs, including any necessary increased supervision or follow-up actions of possible side effects of medication or treatment provided to the child;

(4) The identification of any issues or concerns the child may have that could escalate a child's behavior. Identification of a child's issues or concerns must serve to avoid the use of unnecessary emergency behavior interventions with the child. Child concerns may include issues with food, eye contact, physical touch, personal property, or certain topics; and

(5) A designation of who will be responsible for meeting each of the child's needs.

(c) The plan must be compatible with the information included in the child's admission assessment.

(d) You must document the plan in the child's record.

(e) You must inform each professional level service provider and caregiver working with a child about the child's preliminary service plan.

(f) You must implement and follow the preliminary service plan.

§748.1335. When must I complete an initial service plan?

You must complete the initial service plan within ~~40~~45 days after you admit the child.

§748.1337. What must a child's initial service plan include?

(a) You must base the child's initial service plan on the child's needs identified in the child's admission assessment and integrate trauma informed care in the care, treatment, and management of each child. The service planning team may prioritize the child's service planning goals and objectives based on the child's admission

assessment. However, any required service plan components not initially addressed must have a justification for the delay in addressing the needs.

(b) The child's initial service plan must be documented in the child's record and include those items that a preliminary plan must include (see §748.1331 of this title (relating to What are the requirements for a preliminary service plan?)), and the items noted below for each specific type of service that you provide the child:

Type of Service	Items that must be included:
(1) Child-care services	<p>(A) The child's needs identified in the admission assessment, in addition to basic needs related to day-to-day care and development, including:</p> <ul style="list-style-type: none"> (i) Medical needs, including scheduled medical exams and plans for recommended follow-up treatment; (ii) Dental needs, including scheduled dental exams and plans for recommended follow-up treatment; (iii) Intellectual functioning, including any testing and plans for recommended follow-up; (iv) Developmental functioning, including any developmental delays and plans to improve or remediate developmental functioning; (v) Educational needs and how those needs will be met, including planning for high school completion and post-secondary education and training, if appropriate, and any school evaluations or recommendations; (vi) Plans for <u>normalcy, including:</u> <ul style="list-style-type: none"> (i) social<u>Social, extracurricular,</u> recreation, and leisure activities; <u>and</u> (viii) Plans for integrating<u>Integrating</u> the child into the community and community activities, as appropriate; (viii)vii) Therapeutic needs, including plans for psychological/psychiatric <u>evaluation, psychological evaluation, psychosocial assessment or -testing and</u> follow-up treatment, <u>testing,</u> and <u>the</u> use of psychotropic medications; and (ixviii) Cultural identity needs, including assisting children in connecting with their culture in the community; <p>(B) Plans for maintaining and improving the child's relationship with family members, including recommendations for visitation and contacts between the child and the child's parents, the child and the child's siblings, and the child and the child's extended family;</p> <p>(C) Recent data<u>information</u> from the current caregiver's evaluation of the child's behavior and level of functioning;</p> <p>(D) Specific goals and strategies to meet the child's needs, including instructions to caregivers responsible for the care of the child. Instructions must include specific information about:</p> <ul style="list-style-type: none"> (i) <u>The child's personal trauma history;</u> (ii) <u>Level of supervision required;</u> (iii) <u>The child's trauma triggers;</u>

	<p><u>(iv) Methods of responding that improve a child's ability to trust, to feel safe, and to adapt to changes in the child's environment;</u></p> <p>(#v) Discipline techniques;</p> <p>(#vi) Behavior intervention techniques;</p> <p>(ivvii) Plans for trips and visits away from the operation; and</p> <p>(#viii) Any actions the caregivers must take or conditions the caregivers must be aware of to meet the child's special needs, such as medications, medical care, dietary needs, psychiatric<u>therapeutic</u> care, how to communicate with the child, and reward systems;</p> <p>(E) If the child is 13 years old or older, a plan for educating the child in the following areas:</p> <ul style="list-style-type: none"> (i) Healthy interpersonal relationships; (ii) Healthy boundaries; (iii) Pro-social communication skills; (iv) Sexually transmitted diseases; and (v) Human reproduction; <p>(F) If the child is 14 years old or older, plans for the caregivers to assist the child in obtaining experiential life-skills training to improve his<u>the child's</u> transition to independent living. Plans must:</p> <ul style="list-style-type: none"> (i) Be tailored to the child's skills and abilities; and (ii) Include training in practical activities that include, but are not limited to, grocery shopping, meal preparation, cooking, using public transportation, performing basic household tasks, and <u>money management, including</u> balancing a checkbook; <p>(G) For children 16 years old and older, preparation for independent living, <u>including employment opportunities, if appropriate;</u></p> <p>(H) For children who exhibit high-risk behaviors, such as self harm, sexual aggression, runaway, or substance abuse:</p> <ul style="list-style-type: none"> (i) Plans to minimize the risk of harm to the child or others, such as special instructions for caregivers, sleeping arrangements, or bathroom arrangements; and (ii) A specific safety contract developed between the child and employee<u>staff</u> that addresses how the child's safety needs will be maintained; <p>(I) Expected outcomes of placement for the child and estimated length of stay in care;</p> <p>(J) Plans for discharge;</p> <p>(K) The names and roles of persons who participated in the development of the child's service plan;</p> <p>(L) The date the service plan was developed and completed;</p> <p>(M) The effective date of the service plan; and</p> <p>(N) The signatures of the service planning team members that were involved in the development of the service plan.</p>
(2) Treatment services	<p><u>For children receiving treatment services, the plan must address all of the child's waking hours and include:</u></p> <p>(A) The child-care services planning requirements noted <u>in paragraph</u></p>

	<p><u>(1) of this subsection</u> above;</p> <p>(B) A description of the emotional, behavioral, and physical conditions that require treatment services;</p> <p>(C) A description of the emotional, behavioral, and physical conditions the child must achieve and maintain to function in a less restrictive setting, including any special treatment program and/or other services and activities that are planned to help the child achieve and to function in a less restrictive setting; and</p> <p>(D) A list of emotional, physical, and social needs that require specific professional expertise, and plans to obtain the appropriate professional consultation and treatment for those needs. Any specialized testing, recommendations, and/or treatment must be documented in the child's record.</p>
<p>(3) Treatment services for children with mental retardation <u>an intellectual disability</u></p>	<p>(A) The child-care and treatment services planning requirements noted <u>in paragraphs (1) and (2) of this subsection</u> above;</p> <p>(B) A minimum of one hour per day of visual, auditory, and tactile stimulation to enhance the child's physical, neurological, and emotional development;</p> <p>(C) An educational or training plan encouraging normalization appropriate to the child's functioning; and</p> <p>(D) Career planning for older adolescents who are not receiving treatment services for <u>a severe or profound</u> mental retardation <u>intellectual disability</u>.</p>
<p>(4) Transitional living program</p>	<p>(A) Child-care service planning requirements <u>noted in paragraph (1) of this subsection</u>;</p> <p>(B) Plans for encouraging the child to participate in community life and to form interpersonal relationships/friendships outside the transitional living program, such as community team sports, Eagle Scouts, and employment after school <u>extra-curricular recreational activities</u>;</p> <p>(C) Consumer <u>Plans for</u> education, such as <u>related to</u> meal planning, meal preparation, grocery shopping, public transportation, searching for an apartment, and obtaining utility services;</p> <p>(D) Career planning, including assisting the child in enrolling in an educational or vocational job training program;</p> <p>(E) Money management and assisting the child in establishing a personal bank account;</p> <p>(F) Assisting the child with how to access resources, such as medical and dental care, therapy <u>counseling</u>, mental health care, an attorney, the police, and other emergency assistance;</p> <p>(G) Assisting the child in obtaining the child's social security number, birth certificate, and a driver's license or a Department of Public Safety identification card, as needed; and</p> <p>(H) Problem-solving, such as assessing personal strengths and needs, stress management, reviewing options, assessing consequences for actions taken and possible short-term and long-term results, and</p>

	establishing goals and planning for the future.
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~~(c) For children receiving treatment services, the plan must address all of the child's waking hours.~~

NEW §748.1340. Can the service planning team discuss to develop a child's service plan in separate meetings?

Yes, the service planning team may meet in one meeting, two or more meetings, or in separate meetings, provided that each service planning team member is informed of the discussions and comments regarding the child's service plan that were made in each meeting.

§748.1341. When must I inform the child's parents of an initial service plan meeting?

- (a) ~~The You must give the~~ child's parents must have at least two weeks advance notice of the initial service plan meeting.
- (b) The child's record must include documentation of the notice and any responses from the parents.

§748.1345. What roles do professional level service providers have in service planning?

The roles of professional service providers in service planning include:

Type of Treatment Service	The roles of professional service providers in service planning include:
(1) Emotional disorder and <u>autism spectrum</u> pervasive development disorder	(A) Reviewing the child's diagnoses; (B) Reviewing the identified needs and the plan for treatment based on the child's diagnoses; (C) Reviewing the techniques, strategies, and therapeutic interventions that are planned for the child to improve adaptive functioning; and (D) Reviewing any medications prescribed for a child with special review of psychotropic medications; the presence or absence of medication side effects, including the effects of the medications on the child's behavior; laboratory findings; and any reason the child should not use a medication.
(2) <u>Intellectual disability</u> Mental retardation	(A) Assessing the child's educational needs and progress toward meeting those needs; (B) Ensuring coordination between educators, caregivers, operation employees, and other professionals involved in the child's treatment; and (C) Providing information to the education system on the strategies and techniques used with the child in the operation.
(3) Primary medical needs	(A) Reviewing <u>any</u> medications prescribed for a child; (B) Recommending <u>any</u> special equipment needed by a child; and

	(C) Reviewing special instructions and training to caregivers for the daily care of the child.
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§748.1349. To ~~With~~-whom do I provide a copy of ~~share~~-the child's initial service plan?

- (a) You must give a copy or summary of the initial service plan to the:
 - (1) Child, when appropriate. At a minimum, you must give a copy or summary of the plan to a child 14 years of age or older, unless there is justification for not providing the plan;
 - (2) Child's parents; and
 - (3) Child's caregivers.
- (b) If you provide a copy or summary of the initial service plan to a child:
 - (1) The child must review the plan;
 - (2) The child must sign the plan, or you must document the child's refusal to sign it;
 - and
 - (3) You must document if the child disagrees with the plan.
- (c) If you do not provide a copy or summary of ~~share~~-the initial service plan to a ~~or summary with the~~ child, you must document your justification for not sharing the plan in the child's record.
- (d)~~(e)~~ You must document in the child's record that you provided a copy or summary of the initial service plan to the child's parents.

§748.1351. When must I implement a service plan?

You must implement and follow an initial service plan as soon as all of the service planning team members have reviewed and signed the plan, but no later than ~~40~~15 days after the date of the scheduled service-planning meeting involving the parents and the child.

*Subchapter I, Admission, Service Planning, and Discharge
Division 5, Service Plan Reviews and Updates*

§748.1381. How often must I review and update a service plan?

Except for when the child's placement within your operation changes because of a change in the child's needs, you must review and update the service plan as follows:

Type of Service	Review and Update
(1) Child-care services	At least 180 days from the date of the child's last service plan.
(2) Treatment services for emotional disorder, pervasive developmental <u>autism spectrum</u> disorder, or primary medical	At least 90 days from the date of the child's last service plan.

needs	
(3) Treatment services for <u>intellectual disabilities</u> mental retardation	In the first year of care, the plan must be reviewed at least every 180 days from the date of the child's last service plan. Thereafter, the plan must be reviewed at least annually from the date of the child's last service plan review.

§748.1385. How do I review and update a service plan?

To review and update a service plan, you must:

(1) - (7) (No change.)

~~(8) Determine for children receiving treatment services for emotional disorders, pervasive developmental disorders, or primary medical needs whether to:~~

~~(A) Continue the placement;~~

~~(B) Continue the placement as child-care services;~~

~~(C) Transfer the child to a less restrictive setting; or~~

~~(D) Refer the child to an inpatient hospital;~~

(98) Evaluate the use and effectiveness of emergency behavior intervention techniques, if used, since the last service plan. If applicable, this evaluation must focus on:

(A) - (C) (No change.)

(409) Document in the child's record the review and update of the plan; and

(410) Document the names of the persons participating in the review and update.

NEW §748.1386. Can an operation continue to review and update a child's previous service plan without creating a new service plan?

Yes, a single service plan that continues throughout the time a child is in residential child care is acceptable, as long as you:

(1) Complete a preliminary service plan as required by §748.1331 of this title (relating to What are the requirements for a preliminary service plan?) each time a child is admitted into your care; and

(2) Continue to comply with the service plan review and update requirements in this division of this subchapter (relating to Service Plan Reviews and Updates).

§748.1389. How often must I re-evaluate the intellectual functioning of a child receiving treatment services for ~~mental retardation~~ intellectual disabilities?

(a) Each child's intellectual functioning must be re-evaluated at least every three years by a psychologist qualified to provide psychological testing; or

(b) A psychologist must determine the need and frequency for a specific child's intellectual functioning to be re-evaluated, such as a young child who may require more frequent testing. This determination, including justification for the time frame, must be documented in the child's record annually by the service planning team.

*Subchapter I, Admission, Service Planning, and Discharge
Division 6, Discharge and Transfer Planning*

§748.1433. Who must plan a child's non-emergency discharge or transfer?

(a) - (c) (No change.)

(d) If a child in your care is not receiving treatment services, you must inform ~~him~~the child of ~~his~~the non-emergency discharge or transfer at least four days prior to the date of the discharge or transfer, unless your licensed child-care administrator or professional level service provider has clear justification for not giving ~~him~~the child such notice. The licensed child-care administrator or professional level service provider determines the justification for the child not having the advance notice of the discharge or transfer, must put the justification in writing and sign and date it. The justification must be in the child's record.

(e) If a child in your care is receiving treatment services, you must inform ~~him~~the child of ~~his~~the non-emergency discharge or transfer at least four days prior to the date of the discharge or transfer, unless your treatment director, three members of the child's service planning team, or the child's psychiatrist or psychologist has a justification for not giving ~~him~~the child such notice. Whoever determines the justification for the child not having the advance notice of the discharge or transfer must put the justification in writing and sign and date it. The justification must be in the child's record.

§748.1435. How do I discharge or transfer a child who is an immediate danger to ~~himself~~ or others?

An employee of your operation must accompany the child to the receiving operation, agency, or person unless the child's parent or law enforcement transports the child.

§748.1437. What must I document in the child's record at the time of discharge or transfer?

At the time of a discharge or transfer, you must document the following:

(1) - (2) (No change.)

(3) For discharge, the name, address, telephone number and relationship of the person to whom you discharge the child, unless the child legally consents to ~~his~~a discharge. If the child legally consents to ~~his~~a discharge and does not want to involve the child's parent(s), you must document this in the child's record;

(4) - (7) (No change.)

Subchapter J, Child Care

Division 1, Dental Care

§748.1501. What general dental requirements must my operation meet?

(a) A child in your care must receive dental care:

(1) Initially, according to the requirements in §748.1225 of this title (relating to What are the dental requirements when I admit a child into care?);

(2) At as early an age as necessary;

(3) As needed for relief of pain and infections; and

(4) As needed for ongoing maintenance of dental health.

(b) The child's record must include a written record of each dental examination that consists of specifying the:

(1) ~~Date of the examination;~~

~~(2) Procedures completed;~~

~~(3) A copy of the results of the dental examination;~~

(2) Follow-up treatment recommended and any appointments scheduled; and

~~(4)~~(3) A notation of the ~~The~~ child's refusal to accept dental treatment, if applicable;
and.

~~(5) A copy of the results of the dental examination.~~

(c) For a child in ~~DFPS~~ the conservatorship of the department, you must supplement any information already documented in the child's health passport in order to comply with subsection (b) of this section. In your written record for the child, you are not required to repeat information that is already in the child's health passport.

(d) You must obtain follow-up dental work indicated by the examination, such as treatment of cavities and cleaning.

Best Practice Suggestion

Here are some best practices for use and storage of a child's toothbrush:

• Soft bristle toothbrushes, provided for each child's individual use after meals and snack times, which are:

• Age appropriate;

• Labeled with the child's full name;

• Stored in a manner that prevents the toothbrushes from touching each other and the bristles are not in contact with any surface during storage; and

• Replaced immediately if the bristles become splayed.

• For children under six years old, toothbrushes stored out of children's reach when not in use.

Here are some best practices for use of toothpaste:

• Provide fluoride toothpaste for children three years old or older, or for children who have learned how to spit out toothpaste when brushing.

• Use only a pea-sized amount of toothpaste for children under six years old. Provide adult supervision in the use of toothpaste for children under six years old or children who have not learned how to spit out toothpaste when brushing. This helps to prevent swallowing the toothpaste and possible fluoride poisoning.

Subchapter J, Child Care

Division 2, Medical Care

§748.1531. What general medical requirements must my operation meet?

(a) A child in your care must receive medical care:

(1) Initially, according to the requirements in §748.1223 of this title (relating to What are the medical requirements when I admit a child into care?);

(2) As needed for injury, illness, and pain; and

(3) As needed for ongoing maintenance of medical health.

(b) The child's record must include a written record of each medical examination that consists of specifying:

~~(1) The date of the examination;~~

~~(2) The procedures completed;~~

~~(3) A copy of the results of the medical examination;~~

(2) The follow-up treatment recommended and any appointments scheduled;

~~(4)~~(3) The A notation of the child's refusal to accept medical treatment, if applicable;

~~(5) The results of the medical examination;~~

(64) If the medical examination is a result of an injury or ~~medical incident~~ illness, the documentation of the date, time, and circumstances surrounding the ~~incident~~ injury or illness; ~~including the date and time of the incident~~; and

(75) Any other documentation provided by the health-care professional who performed the examination.

(c) For a child in ~~DFPS~~ the conservatorship of the department, you must supplement any information already documented in the child's health passport in order to comply with subsection (b) of this section. In your written record for the child, you are not required to repeat information that is already in the child's health passport.

(d) You must obtain follow-up medical treatment as recommended by the health-care professional.

Best Practice

If there is no date by which to obtain follow-up treatment, then if necessary the follow-up should be done as soon as practical and integrated into the next service plan review.

§748.1539. What immunizations must a child in my care have?

(a) Each child that you admit must meet and continue to meet applicable immunization requirements as specified by ~~§42.043 of the Human Resources Code and~~ the Department of State Health Services.

(b) You must maintain current immunizations records for each child in your care, including any immunization exemptions or exceptions. ~~For a child in DFPS conservatorship, documentation in the child's health passport is sufficient.~~

(c) Unless the child is exempt from immunization requirements, all immunizations required for the child's age must:

(1) Be completed by the date of admission; or

(2) A child that is homeless or a child in foster care shall be admitted temporarily for 30 days if acceptable evidence of immunization is not available. You should immediately refer the child to an appropriate health care professional to obtain the required immunizations ~~Begin within 30 days after admission.~~

Helpful Information

The current immunization requirements can be found at <http://www.immunizetexas.com>, and:

- For children 0 through 43 months click on "School Requirements", click on "Main Page", to the right of the page click on "Child-Care Facilities", and click on "2015-2016 Texas Minimum State Vaccine Requirements for Child-Care Facilities";
- For children 44 months through 18 years click on "School Requirements", click on "Main Page", to the right of the page click on "Schools", and click on "2015-2016 Texas Minimum State Vaccine Requirements for Students Grades K-12".

§748.1541. What ~~are the~~ exemptions ~~from~~ or exceptions are there concerning immunization requirements?

(a) ~~Exemptions for~~ A child may be exempt from immunization requirements for a medical reason or reason of conscience, including a religious belief. To claim an exemption, the person applying for the child's admission must meet criteria specified by:

- (1) §42.043(d) and (d-1) of the Human Resources Code; or
- (2) The Department of State Health Services ~~rule~~**rules** in 25 TAC §97.62 (relating to Exclusions from Compliance).

(b) For some diseases, a child who previously had a disease and is accordingly naturally immune from it may qualify for an exception to immunization requirements for the disease. To claim this exception, the person applying for the child's admission must meet the criteria specified by the Department of State Health Services rule in 25 TAC §97.65 (relating to Exceptions to Immunization Requirements).

Helpful Information

- You can find more information ~~in~~ regarding the Department of State Health Services' exemptions at <http://www.dshs.state.tx.us/immunize/default.shtm>, click on "School Requirements", click on "Main Page", and to the right of the page click on "Exclusions from Immunization Requirements". ~~rules at 25 TAC Chapter 97, Subchapter B (relating to Immunization Requirements in Texas Elementary and Secondary Schools and Institutions of Higher Education). You can access it on the Department of State Health Services website at: www.dshs.state.tx.us/immunize, or at your local or state health department.~~
- While exemptions that comply with HRC §42.043(d) and (d-1) may be used by the person applying for the child's admission into an operation, these exemptions may not comply with the school exemption requirements.

§748.1543. What documentation is acceptable for an immunization record?

Acceptable documentation includes:

(1) An official immunization record generated from a state or local health authority, including a record from another state. Examples include a registry, a copy of the current immunization record that is on file at the pre-kindergarten program or school, or the health passport for a child in the conservatorship of DFPS, so long as the record includes:

- (A) The child's name and date of birth;
- (B) The type of vaccine and number of doses; and
- (C) The month, day, and year the child received each vaccination; or

(2) An official immunization record or photocopy, such as from a doctor's office, that includes:

- (A) The child's name and date of birth;
- (B) The type of vaccine and number of doses;
- (C) The month, day, and year the child received each vaccination;
- (D) The signature (including a rubber stamp or electronic signature) of the health-care professional who administered the vaccine, or another health-care professional's

documentation of the immunization as long as the name of the health-care professional that administered the vaccine is documented; and

(E) Clinic contact information, if the immunization record is generated from an electronic health record system.

~~(a) An original or facsimile of the immunization record must include:~~

- ~~(1) The child's name and birth date;~~
- ~~(2) The number of doses and vaccine type;~~
- ~~(3) The month, day, and year the child received each vaccination; and~~
- ~~(4) One of the following:~~
 - ~~(A) A signature or rubber stamp signature from the health-care professional who administered the vaccine; or~~
 - ~~(B) A registered nurse's documentation of the immunization that is provided by a health-care professional, as long as the health-care professional's name and qualifications are documented.~~
- ~~(b) Documentation of an immunization record on file at your operation may be:~~
 - ~~(1) The original record;~~
 - ~~(2) A photocopy;~~
 - ~~(3) An official immunization record generated from a state or local health authority, such as a registry;~~
 - ~~(4) A record received from school officials, including a record from another state; or~~
 - ~~(5) The child's health passport, for a child in DFPS conservatorship.~~

§748.1549. What special equipment must I provide for a child with a physical disability?

When recommended by a ~~physician or other~~ health-care professional, you must ensure that a child with a physical disability has any special equipment that can be reasonably obtained.

§748.1551. How often must the physician review a child's primary medical needs?

- (a) (No change.)
- (b) The review must address:
 - (1) (No change.)
 - (2) Any new or changed orders regarding the items outlined in §748.1219(3)(B) of this title (relating to What are the additional admission assessment requirements when I admit a child for treatment services?).
- (c) (No change.)

*Subchapter J, Child Care
Division 3, Communicable Diseases*

§748.1581. What health precautions must I take if someone in my operation has a communicable disease?

- (a) You must notify the Department of State Health Services (DSHS) after you become aware that a person in your care, a person who resides at your operation, an employee, a contract service provider, or a volunteer has contracted a communicable disease that the law requires you to report to the DSHS as specified in 25 TAC Chapter 97, Subchapter A (relating to Control of Communicable Diseases).
- (b) If a person in your care or a person who resides at your operation has symptoms of a communicable disease that is reportable to the DSHS, you must:
 - (1) Consult a health-care professional about the person's treatment;

- (2) Follow the treating physician's orders, which may include separating the person from others;
 - (3) Notify the person's parent, if applicable; and
 - (4) Sanitize all items used by the sick person before another person uses one of them.
- (c) If a health-care professional diagnoses a person in your care or a person who resides at your operation with a communicable disease that is reportable to DSHS ~~may be spread through casual contact~~, a health-care professional must authorize the person's participation in any routine activity/activities at your operation. The authorization must:
- (1) Be in the person's record, if the person is in care at your operation;
 - (2) Include a written statement that the person will not pose a serious threat to the health of others; and
 - (3) Include any specific instructions and precautions to be taken for the protection of others, if necessary.
- (d) If an employee, a contract service provider, or volunteer has a communicable disease that is reportable to DSHS ~~may be spread through casual contact~~, you must obtain written authorization from a health-care professional for the person to be present at the operation. The written authorization must include a statement that the person will not pose a serious threat to the health of others.
- (e) You must follow any written instructions and precautions specified by a health-care professional.

Helpful Information

Communicable diseases that exclude a child from routine activity are defined by the Department of State Health Services (DSHS) in 25 TAC §97.7 (relating to Diseases Requiring Exclusion from Child-Care Facilities and Schools). You can obtain this information from the Department of State Health Services ~~or Licensing staff~~.

Subchapter J, Child Care

Division 6, Tobacco and E-Cigarette Use

§748.1661. What policies must I enforce regarding tobacco products and e-cigarettes?

- (a) A child may not use or possess tobacco products, e-cigarettes, or any type of vaporizers.
- (b) An adult may not smoke tobacco products, e-cigarettes, or vaporizers in the children's living quarters or inside any building on your premises where children are present.
- (c) An adult may only smoke tobacco products, e-cigarettes, or vaporizers on your premises at a safe distance from the children's living quarters.
- (d) No one may smoke tobacco products, e-cigarettes, or vaporizers in motor vehicles when transporting children in care.

Subchapter J, Child Care

Division 7, Nutrition and Hydration

§748.1695. What are the specific requirements for feeding an infant?

- (a) You must feed the infant:
- (1) On demand following the infant's lead on when to feed, how long to feed, and how much to feed; and
 - (2) Based on the recommendation of the infant's health-care professional~~licensed physician~~, who must approve you giving the infant any milk other than fortified formula.
- (b) You must hold the infant while feeding ~~an him if the~~ that is:
- (1) Birth through six months old; or
 - (2) Unable to sit unassisted in a high chair or other seating equipment during feeding.
- (c) You must never prop a bottle by supporting it with something other than the infant's ~~child~~ or adult's hand.
- (d) If you care for more than one infant, you must:
- (1) Label each bottle and training cup with the child's first name and initial of last name;
 - (2) Not permit the infant to share bottles or training cups; and
 - (3) Sanitize high chair trays before each use.

§748.1697. What are the specific requirements for feeding toddlers and older children?

- (a) A toddler or older child must eat meals in the dining areas unless the service planning team's recommendations are to the contrary.
- (b) Food service practices for children receiving treatment services for primary medical needs or an intellectual disability~~mental retardation~~, including non-mobile children, must encourage self-help and development.

Subchapter J, Child Care

Division 8, Additional Requirements for Infant Care

§748.1741. What do certain terms ~~words~~ mean in this division?

These terms ~~words~~ have the following meaning in this division:

- (1) Baby doorway ~~bungee~~-jumper--A bucket seat that is suspended from a doorway by an elastic bungee cord that allows an infant to bounce while sitting in the seat.
- (2) Baby walker--A baby walker allows an infant to sit inside the walker equipped with rollers or wheels and move across the floor.
- (3) Bouncer seat--A stationary seat designed to provide gentle rocking or bouncing motion by an infant's movement, or by battery-operated movement. This type of equipment is designed for an infant's use from birth until the child can sit up unassisted.
- (4) Restrictive device--Equipment that places the body of an infant in a position that may restrict airflow or cause strangulation; usually, the infant is placed in a semi-seated

position. Examples of restrictive devices are car seats, swings, bouncy seats, and high chairs.

§748.1743. What are the basic care requirements for an infant?

(a) Each infant must receive individual attention, including playing, talking, cuddling, and holding.

(b) When an infant is upset, a caregiver must hold and comfort the infant.

(c) A caregiver must provide prompt attention to an infant's physical needs, such as feeding and diapering.

(d) An infant's caregiver must ensure that the environment is safe. For example, the caregiver must free the area of objects that may choke or harm the infant, take measures to prevent electric shock, free the area of furniture that is in disrepair or unstable, and allow no unsupervised access to water to prevent the risk of drowning.

(e) Items necessary for diaper changing must be kept out of the reach of children, but do not need to be in locked storage.

~~(e)~~(f) An infant's caregiver must never leave the infant unsupervised. A sleeping infant is considered supervised if the caregiver is within eyesight or hearing range of the infant child and can intervene as needed, or if the caregiver uses a video camera or audio monitoring device to monitor the infant child and is close enough to the infant child to intervene as needed.

§748.1751. What specific safety requirements must my cribs meet?

(a) All full-size and non-full-size cribs must have:

(1) A firm, flat mattress that snugly fits the sides of the crib and that is designed for the crib. The mattress must not be supplemented with additional foam material or pads;

(2) Sheets that fit snugly and do not present an entanglement hazard;

(3) A mattress that is waterproof or washable;

(4) Secure mattress support hangers, and no loose hardware or improperly installed or damaged parts;

(5) A maximum of 2 3/8 inches between crib slats or poles;

(6) No corner posts over 1/16 inch above the end panels;

(7) No cutout areas in the headboard or footboard that would entrap an infant's a child's head or body;

(8) Drop gates, if present, which fasten securely and cannot be opened by a child; and

(9) Documentation that each crib meets the applicable federal rules at Title 16, Code of Federal Regulations, Parts 1219 or 1220, concerning "Safety Standards for Full-Size Baby Cribs" and "Safety Standards for Non-Full-Size Baby Cribs," respectively, or documentation that each crib is a medical device listed and registered with the U.S. Food and Drug Administration.

(b) You must sanitize each crib when soiled and before reassigning the crib to a different infant child.

(c) You must never leave an infant a child in the crib with the drop gate down.

(d) You may not have stackable cribs.

Helpful Information Box

- Research shows more babies die in incidents involving cribs than with any other piece of nursery equipment.
- Non-full-size cribs may be either smaller or larger than a full size crib, or shaped differently than the usual rectangular crib. The category of non-full-size cribs includes oversized, specialty, undersized, and portable cribs, but does not include any product with mesh/net/screen siding, non-rigidly constructed cribs, cradles, car beds, baby baskets, or bassinets. For requirements for play yards, which are mesh or fabric sided products, see §748.1753 of this title (relating to Are play yards allowed?).
- Regarding paragraph (1), a mattress is too loose if there are more than two finger widths between the edge of the mattress and the crib side.
- Regarding paragraph (5), if a soda can fits easily between the slats on a crib, the slats are too wide.
- ~~A mattress is too loose if there are more than two finger widths between the edge of the mattress and the crib side.~~
- Regarding paragraph (9):
 - Cribs manufactured before 06/28/2011 may not meet the safety standards established by the Consumer Product Safety Commission (CPSC).
 - Documentation that you may use to verify your crib is in compliance with CPSC regulations includes the certificate of compliance, registration card, or tracking label. You may request this documentation from the manufacturer or retailer.
 - The certificate of compliance is a document that describes the crib and whether the crib complies with 16 CFR 1219 or 16 CFR 1220. The certificate includes the contact information for the importer or domestic manufacturer and the testing lab. It also lists the date and location of manufacture and testing.
 - The registration card is a postage-paid form provided by the crib manufacturer. The card includes the manufacturer's name and contact information, model name, model number, and the date of manufacture.
 - The tracking label is attached to the crib and contains basic information such as the date of manufacture and the source of the crib.
 - You may find additional guidance on obtaining supporting documentation for your cribs on the CPSC website at <http://www.cpsc.gov>.
 - In order to maintain the required documentation for each crib consider developing a system to easily tie the required documentation to the appropriate crib. Examples may include photographs of each crib attached to the documentation or a tracking sheet that includes information such as the date of purchase, manufacturer and model number, date of manufacture, and what documentation is on file (certificate of compliance, tracking label, or registration card).
 - A crib that meets the definition of “device” in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 201(h)) is subject to regulation by the Food and Drug Administration (FDA), not CPSC. A crib that is not a “device” is subject to CPSC’s crib standards.
 - If your crib is a medical device, the manufacturer must be registered with the FDA. For additional information, visit the FDA website at <http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/HowtoMarket>

DELETE §748.1753. Are mesh cribs or port-a-cribs allowed?

NEW §748.1753. Are play yards allowed?

(a) Play yards, which are mesh or fabric sided cribs, are allowed if they meet the following safety requirements:

(1) The play yards must be used according to the manufacturer's instructions, including the cleaning of the cribs;

(2) Play yards must have:

(A) A firm, flat mattress that snugly fits the sides of the crib and that is designed for the crib. The mattress must not be supplemented with additional foam material or pads;

(B) Sheets that fit snugly and do not present an entanglement hazard;

(C) A mattress that is waterproof or washable;

(D) Secure mattress support hangers, and no loose hardware or improperly installed or damaged parts;

(E) A minimum height of 22 inches from the top of the railing to the mattress support at its lowest level;

(F) Folded sides that securely latch in place when raised;

(G) For mesh cribs, mesh openings that are 1/4 inch or less; and

(H) Mesh or fabric that is securely attached to the top rail, side rail, and floor plate; and

(3) You must never leave an infant in a play yard with a side folded down.

(b) If you become aware of a recall for a non-full-size crib or a mesh crib that you are using, you must discontinue its use immediately.

§748.1757. What types of equipment are not allowed for use with infants?

(a) You may not use any of the following types of equipment with infants:

(1) Baby walkers;

(2) Baby ~~doorway~~ bungee jumpers;

(3) Accordion safety gates; ~~and~~

(4) Toys that are ~~small~~ not large enough to ~~prevent swallowing or choking~~ swallow or choke a child; ~~or~~

~~(b)~~ ~~(5) Children may not sleep on beanbags~~ Bean bags, waterbeds, ~~or~~ and foam pads for use as sleeping equipment.

~~(b)~~ ~~(c)~~ Except for a tight fitting sheet and as provided in subsection (c), the crib must be bare for an infant younger than twelve months of age. ~~You may not use soft or loose bedding, such as blankets, sleep positioning devices, stuffed toys, quilts, pillows, bumper pads, and comforters in a crib for an infant younger than 12 months of age.~~

(c) A crib mattress cover may also be used to protect against wetness, but the cover must:

(1) Be designed specifically for the size and type of crib and crib mattress that it is being used with;

(2) Be tight fitting and thin; and

(3) Not be designed to make the sleep surface softer.

(d) An infant receiving treatment services for primary medical needs may have special items that assist with safe sleep at the written recommendation of a health-care professional. You must keep the recommendation in the child's record.

Helpful Information

The prohibited equipment is not safe or beneficial to an infant's development and is not recommended by either the American Academy of Pediatrics or the Consumer Product Safety Commission.

• Regarding paragraph (1). ~~B~~ baby walkers present a hazard due to risk of ~~falls~~ falling down stairs, ~~or~~ steps, and tipping over thresholds or carpet edges. They provide infants accessibility to potentially hot surfaces, containers of hot liquids such as coffee, dangling appliance cords, poisonous plants or hazardous substances and buckets, toilets or other containers of water.

• Regarding paragraph (2). ~~B~~ baby doorway ~~bungee~~ jumpers present a hazard due to increased risk of injury to the child as a result of spinning, swinging, or bumping into walls while placed in the jumper.

• Regarding paragraph (3). ~~A~~ accordion gates with large V-shaped openings along the top edge and diamond shaped openings between the slats present entrapment and entanglement hazards resulting in strangulation, choking or pinching to children who try to crawl through or over the gate.

• Regarding paragraph (4). ~~E~~ examples of items that present a choking hazard for infants and toddlers include coins, balloons, safety pins, marbles, Styrofoam © and similar products, and sponge, rubber or soft plastic toys.

~~• Studies on SIDS support eliminating soft bedding materials and stuffed toys used for children under six months old.~~

• Regarding subsection (b), studies on SIDS support eliminating soft bedding materials, sleep positioning devices, and stuffed toys for infants under twelve months. Examples of items that can be used as alternatives to blankets and sheets are a one-piece footed sleeper, a body shirt or undershirt underneath a sleeper, sleep sack or wearable blanket that zips up the front and can be worn over a sleeper. Wearable blankets are sleeveless, so a baby can still move his arms around while the rest of his body stays covered.

~~The prohibited equipment is not safe or beneficial to an infant's development and is not recommended by either the American Academy of Pediatrics or the Consumer Product Safety Commission.~~

§748.1759. What activities must I provide infants?

You must provide the following activities for an infant:

(1) Multiple opportunities each day to explore in a safe and clean area that is outside of the crib or ~~other confining equipment~~ restrictive device;

(2) Opportunities for visual, auditory, and sensory stimulation;

(3) Opportunities for small- and large-muscle development; and

(4) A supervised nap period that allows the infant to maintain the child's own pattern of sleeping and waking.

§748.1761. How long may an infant remain in a crib after awakening?

An infant may remain in the crib ~~or other confining equipment~~ for up to 30 minutes after awakening, as long as the infant is content and responsive.

§748.1763. ~~Are infants required to sleep on their backs?~~ What are the specific sleeping requirements for infants?

(a) ~~Yes.~~ You must place an infant not yet able to turn over on his own in a face-up sleeping position unless a health-care professional orders otherwise. You must keep any orders from a health-care professional in the child's record.

(b) An infant's head, face, or crib must not be covered at any time by an item such as a blanket, linen, or clothing.

(c) An infant may not sleep in a prone position with a sleeping adult at any time, including in the adult's bed, on a couch, etc.

DELETE §748.1765. If an infant has difficulty falling asleep, may the infant's head or crib be covered?

NEW §746.1765. May I allow infants to sleep in a restrictive device?

No. You may not allow an infant to sleep in a restrictive device. If an infant falls asleep in a restrictive device, the infant must be removed from the device and placed in a crib as soon as possible.

- *Infants sleeping in restrictive devices are at risk for strangulation, injury, and positional asphyxiation.*
- *You must not place a car seat in a crib with a sleeping infant.*

Subchapter J, Child Care

Division 9, Additional Requirements for Toddler Care

§748.1791. What are the basic care requirements for a toddler?

(a) Each toddler must receive individual attention, including playing, talking, and cuddling.

(b) A toddler's caregiver must ensure that the environment is safe. For example, the caregiver must free the area of objects that may choke or harm the ~~toddler~~infant, take measures to prevent electric shock, free the area of furniture that is in disrepair or unstable, and allow no unsupervised access to water to prevent the risk of drowning.

(c) A toddler's caregiver must never leave the toddler unsupervised. A sleeping toddler is considered supervised if the caregiver is within eyesight or hearing range of the ~~toddler~~child and can intervene as needed, or if the caregiver uses a video camera or audio monitoring device to monitor the ~~toddler~~child and is close enough to the ~~toddler~~child to intervene as needed.

§748.1793. What furnishings and equipment must I provide for toddlers?

Furnishings and equipment for toddlers must at a minimum include the following:

- (1) Age-appropriate seating, tables, and nap and sleep equipment. Toddlers may use cribs or beds, as appropriate;
- (2) Enough popular items available, so a toddler is not forced to compete for them; and
- (3) Containers or low shelving that are accessible to toddlers, so toddlers items that can be safely obtain the items used without adult intervention ~~direct supervision are accessible to children~~.

Subchapter L, Medication

Division 1, Administration of Medication

§748.2003. What ~~medication requirements must my operation meet~~ are the requirements for administering prescription medication?

(a) To the best of your knowledge, you must inform the person legally authorized to give medical consent of the benefits, risks, and side effects of all prescription medication and treatment procedures used and the medical consequences of refusing them, and/or provide the name and telephone number of the prescribing health-care professional for more information.

(b) ~~You~~ For prescription medications, you must:

- (1) Be informed about possible side effects of medications administered to the child;
- (2) Store all medication in the original container unless you have an additional container with the same label and instructions;
- (3) Administer all medications according to the instructions on the label or according to a prescribing health-care professional's subsequent signed orders (See §748.2005 of this title (relating to May I accept verbal orders on the administration of medication?));
- (4) Administer each child's medication within one hour of preparation;
- (5) Ensure the child has taken the medication as prescribed;
- (6) Ensure a person trained in and authorized to administer ~~prescription~~ medication administers the medication to a child in care unless the child is on a self-medication program;
- (7) Maintain any documentation provided by the health-care professional on the administration of current ~~prescription~~ medication;
- (8) Not physically force a child to take ~~prescription~~ medication except as allowed by §748.2455(a)(2)(B) of this title (relating to What actions must a caregiver take before using a permitted type of emergency behavior intervention?);
- (9) Ensure that your employees do provide any ~~prescription~~ medication or treatment to a child except on written orders of a health-care professional;
- (10) Not borrow or administer ~~prescription~~ medication to a child that is prescribed to another person; and
- (11) Not administer ~~prescription~~ medication to more than one child from the same container. Only the child for whom the ~~prescription~~ medication was prescribed may use the medication.

§748.2009. What are the requirements for administering nonprescription medication and vitamins supplements?

(a) For non-prescription medications and supplements, You you must:

(1) follow Follow the label instructions for dosage;

(2) Inform the child's prescribing health-care professional of the administration and dosage of any non-prescription medication or supplements and to ensure the nonprescription medication and/or supplements is are not contraindicated with any other medication prescribed to the child or the child's medical conditions.

(b) You may give nonprescription medication or vitamins supplements to more than one child from one container.

Subchapter L, Medication

Division 2, Self-Administration of Medication

§748.2053. Who must record the medication dosage if the child is on a self-medication program?

When a child who is on a self-medication program takes a dosage of the medication, you must ensure there is a system for reviewing the child's medication each day and that the child either may:

(1) ~~Record~~ Records the daily dosage ~~if you have a system for reviewing the child's medication each day~~; or

(2) ~~Report~~ Reports the medication to an appropriate employee or service provider, who must then do the actual daily recording.

Subchapter L, Medication

Division 3, Medication Storage and Destruction

§748.2101. What medication storage requirements must my operation meet?

You must:

(1) Store medication in a locked container;

(2) Keep medication inaccessible other than to employees responsible for stored medication;

~~(3) Ensure the medication storage area has a separate container where medications "for external use only" are stored separately from other medications;~~

~~(4)~~ Store medication covered by Schedule II of the Texas Controlled Substances Act under double lock in a separate container. For example, a double lock can include a lock on the cabinet or filing cabinet and the door to the closet where medications are stored;

~~(5)~~ Make provisions for storing medication that requires refrigeration;

~~(6)~~ Keep medication storage area(s) clean and orderly;

~~(7)~~ Remove discontinued medication immediately and destroy it in a way that ensures that children do not have access to it;

~~(8)~~ Remove medication on or before the expiration date and destroy it in a way that ensures that children do not have access to it;

(98) Remove medication of a discharged or deceased child immediately and destroy it in a way that ensures that children do not have access to it; and

(109) Provide prescription medication to the person to whom a child is discharged or transferred if the child is taking the medication at that time.

Subchapter L, Medication

Division 4, Medication Records

§748.2151. What records must you maintain for each child receiving medication?

(a) You must maintain a cumulative medication record of all:

(1) Prescription medication dispensed to each child; and

(2) Nonprescription medications and supplements, ~~excluding vitamins, that are~~ dispensed to a child under five years old.

(b) The cumulative medication record must be updated:

(1) Within 2 hours of administering medication, unless you operate a cottage home model; or

(2) Within 24 hours of administering medication if you operate a cottage home model.

~~(c)~~ You must maintain the medication record, ~~during the time that you provide services to the child. This record~~ which must include ~~the~~:

(1) Child's full name;

(2) Prescribing health-care professional's name, if applicable;

(3) Reason medication was prescribed, for prescription medication;

(4) Medication name, strength, and dosage;

(5) Date (day, month, and year) and the time the medication was administered;

(6) Name and signature of the person who administered the medication;

(7) Child's refusal to accept medication, if applicable; and

(8) Reasons for administering the medication, including the specific symptoms, condition, and/or injuries of the child that you are treating, only for:

(A) PRN psychotropic medication; and

(B) Nonprescription medications and supplements ~~(excluding vitamins)~~ for children under five years old.

~~(e)~~ (d) Unless you operate on a cottage home model, you must count each medication prescribed to a child at least daily and document the count. The medication count must match the medication documentation.

(e) You must document in the medication record any non-prescription medication or supplement that is given to the child and how often the child receives the medication or supplement.

~~(d)~~ (f) You must document ~~Identification of~~ any prohibited prescription medications (for example, medication allergies or contraindications) or prohibited; nonprescription medications and supplements ~~medication, or vitamins for each child must be maintained~~ in the medication record ~~that must be incorporated into the child's record.~~

~~(e)~~ (g) ~~The~~ You must incorporate the medication record ~~records of prescription and applicable nonprescription medication dispensed to the child must be incorporated~~ into the child's record.

Subchapter L, Medication

Division 6, Side Effects and Adverse Reactions to Medication

§748.2231. What must I do if a child has an adverse reaction to a medication?

If a child has an adverse reaction (unexpected or dangerous reaction) to a medication, you must:

- (1) Immediately report the reaction to a health-care professional and the child's parent;
 - (2) Follow the health-care professional's recommendations;
 - (3) Seek further medical care for the child if the child's condition appears to worsen;
- and
- (4) Document in the child's medical record the:
 - (A) Adverse reactions that the child had to the medication;
 - (B) Time and date of call(s) to the health-care professional;
 - (C) Name and title of the health-care professional contacted; and
 - (D) Health-care professional's medical recommendations for ensuring the child's safety.

§748.2233. What must I do if a child experiences side effects from any medications?

(a) A side effect from any medication is an effect of medication in addition to the medication's intended effect, often an undesirable effect.

(b) If a child experiences side effects from any medication, ~~the caregiver~~you must:

- (1) Document the observed and reported side effects;
- (2) Immediately report any serious side effects to the child's prescribing health-care professional ~~physician~~and the child's parent; and
- (3) Report any other side effect to the prescribing health-care professional ~~physician~~ within 72 hours.

Subchapter M, Discipline and Punishment

§748.2309. To what extent may I restrict a child's activities as a behavior management tool?

(a) Within limits, a caregiver may restrict a child's activities as a behavior management tool.

(b) Restrictions of activities that ~~, other than school or chores, which~~ will be imposed on a child for more than fourteen ~~seven~~ days, must have prior approval by the treatment director, service planning team, or professional level service provider.

(c) Restrictions to a particular room or building that will be imposed on a child for more than 24 hours must have prior approval by the treatment director, service planning team, or professional level service provider.

(d) You must inform the child and parent about any restrictions that you place on the child.

(e) Documentation of all approvals, justification for the restriction, and informing the child and parents must be in the child's record.

Subchapter N, Emergency Behavior Intervention
Division 1, Definitions

§748.2401. What do certain terms mean in this subchapter?

These terms have the following meaning in this subchapter:

- ~~(1) Chemical restraint--A type of emergency behavior intervention that uses chemicals or pharmaceuticals through topical application, oral administration, injection, or other means to immobilize or sedate a child as a mechanism of control. The use of medications that have a secondary effect of immobilizing or sedating a child, but are prescribed by a treating health-care professional and administered solely for medical or dental reasons, is not chemical restraint and is not regulated as such under this chapter.~~
- ~~(2) De-escalation--See §748.43(13) of this title (relating to What do certain words and terms mean in this chapter?).~~
- ~~(3) Emergency behavior intervention--See §748.43(17) of this title.~~
- ~~(4) Emergency medication--A type of emergency behavior intervention that uses chemicals or pharmaceuticals through topical application, oral administration, injection, or other means to modify a child's behavior. The use of medications that have a secondary effect of modifying a child's behavior, but are prescribed by a treating health-care professional and administered solely for medical or dental reasons (e.g. benadryl for an allergic reaction or medication to control seizures), is not emergency medication and is not regulated as such under this chapter.~~
- ~~(5) Emergency situation--A situation in which attempted preventative de-escalatory or redirection techniques have not effectively reduced the potential for injury and it is immediately necessary to intervene to prevent:
 - ~~(A) Imminent probable death or substantial bodily harm to the child because the child attempts or continually threatens to commit suicide or substantial bodily harm; or~~
 - ~~(B) Imminent physical harm to another because of the child's overt acts, including attempting to harm others. These situations may include aggressive acts by the child, including serious incidents of shoving or grabbing others over their objections. These situations do not include verbal threats or verbal attacks.~~~~
- ~~(6) Mechanical restraint--A type of emergency behavior intervention that uses the application of a device to restrict the free movement of all or part of a child's body in order to control physical activity.~~
- ~~(7) Personal restraint--A type of emergency behavior intervention that uses the application of physical force without the use of any device to restrict the free movement of all or part of a child's body in order to control physical activity. Personal restraint includes escorting, which is when a caregiver uses physical force to move or direct a child who physically resists moving with the caregiver to another location.~~
- ~~(8) PRN--See §748.43(38) of this title.~~
- ~~(9) Prone restraint--Placing a child in a chest down restraint hold.~~
- ~~(10) Seclusion--A type of emergency behavior intervention that involves the involuntary separation of a child from other residents and the placement of the child~~

alone in an area from which the resident is prevented from leaving by a physical barrier, force, or threat of force.

~~(11) Short personal restraint--A personal restraint that does not last longer than one minute before the child is released.~~

~~(12) Supine restraint--Placing a child in a chest up restraint hold.~~

~~(13) Transitional hold--The use of a temporary restraint technique that lasts no longer than one minute as part of the continuation of a longer personal or mechanical restraint.~~

~~(14)~~ 2 Triggered review--A review of a specific child's placement, treatment plan, and orders or recommendations for intervention, because a certain number of interventions have been made within a specified period of time (e.g. three seclusions within a seven-day period).

Helpful Information

The distinguishing variable between a PRN (as needed) psychotropic medication and an emergency medication is the circumstances under which the medication is given. A medication given to help a child manage his/her behavior or to de-escalate a child who is having trouble managing his/her behavior is regulated only as a PRN psychotropic medication. However, if the medication is given in response to an emergency situation, it is an emergency medication. For example, a child becomes increasingly agitated after a family visit, to the point of screaming and becoming verbally abusive to caregivers and other children. The child is not able to use self-calming techniques. If the child is offered a PRN psychotropic medication under these circumstances, it is not regulated as emergency medication, because there is no emergency situation. The medication serves to help the child manage the behavior before it escalates into an emergency. However, if the child had escalated to the point of physically assaulting someone and requiring physical restraint, then a medication offered during the restraint to help the child calm would be regulated as an emergency medication.

Subchapter O, Safety and Emergency Practices

Division 1, Sanitation and Health Practices

§748.3015. How must caregivers handle bodily fluids that require universal precautions?

~~(a) Bodily fluids that require~~ Caregivers must follow universal precautions outlined by the Centers for Disease Control (CDC) when handling ~~include~~ blood, vomit, or other bodily fluids that may contain blood, including: -

~~(b) When handling these bodily fluids, caregivers must:~~

~~(1) Use~~ Using disposable, nonporous gloves;

~~(2) Placing gloves contaminated with blood in a tied, sealed, or otherwise closed plastic bag and discarding them immediately;~~

~~(3) Discard the~~ Discarding all other gloves in a sanitary manner immediately after one use;

(3) ~~Wash~~Washing hands with soap and running water after using and disposing of the gloves;

(4) ~~Dispose these~~Disposing the bodily fluids in accordance with local regulations. Where local disposal regulations do not exist, the Department of State Health Services must be consulted regarding the appropriate disposal procedures and their recommendations must be followed; and

(5) ~~Dispose~~Disposing disposable syringes, needles, and other sharp items used by persons for injections or for medical or other procedures in a hard plastic, leak and puncture-resistant container immediately after use, and keep them inaccessible to children.

§748.3017. Are animals allowed at my operation?

(a) Yes, if:

(1) You have documentation at your operation showing that dogs, and cats, ~~and ferrets~~ have been vaccinated for rabies as required by Texas Health and Safety Code, Chapter 826; and

(2) (No change.)

(b) (No change.)

Subchapter P, Physical Site

Division 1, Grounds and General Requirements

§748.3301. What general physical site requirements must my operation meet?

Helpful Information

- *Repair work that is scheduled or in progress may be considered as compliance with the requirements in this rule, as long as any risk to children has been adequately addressed.*
- *Related to subsection (d), this includes reasonable and timely efforts to shovel the snow from the walkways and/or deicing the ice and/or snow.*
- *Related to subsection (h), this includes reasonable and timely efforts to control insects, such as regularly scheduled exterminator visits.*

Subchapter P, Physical Site

Division 2, Interior Space

§748.3351. What are the requirements for general living space?

You must provide:

(1) ~~Us with a sketch of the operation's floor plan showing the dimensions and the purpose of all rooms and specifying where children and caregivers, if applicable, will sleep. This must be provided to us with the initial application for a permit and when changes are made;~~

~~(2)~~ Living space, appropriate furnishings, and bathroom facilities that are safe, clean, and maintained in good repair;

~~(2)~~~~(3)~~ Provisions for personal storage space in the child's bedroom for each child's clothing and belongings;

~~(3)~~~~(4)~~ At least 40 square feet per child, including adult residents and children of caregivers residing at the operation, of indoor activity space, excluding bedrooms, halls, kitchens, bathrooms, and any other space not regularly available to a child;

~~(4)~~~~(5)~~ Each bedroom with at least one window with outside exposure as a source of natural light, unless you were granted a permit by us prior to January 1, 2007, and your permit is still valid; and

~~(5)~~~~(6)~~ Every bedroom window with curtains, blinds, shades, or other provisions for rest and privacy.

§748.3353. May I use a video camera to supervise a child in the child's bedroom?

(a) Video cameras may be used to supervise infants and toddlers.

(b) Video cameras may not be used to supervise children, other than infants and toddlers unless the:

(1) Parent, or other person legally authorized to consent, consents to the use of the video camera; and

(2) Child:

(A) Is younger than five years old;

(B) Has primary medical needs; or

(C) Requires heightened supervision, such as a child who sleepwalks, experiences night terrors, engages in physically aggressive or sexual behavior problems, or resides in a bedroom with such a child. You must document the justification for the video camera in each child's service plan, and each child must have other accessible and reasonable locations where the child ~~he~~ may change ~~his~~ clothing in private.

(c) Video cameras may not be used to tape the child, and images may not be accessible except to operation employees and caregivers.

§748.3357. What are the requirements for floor space in a bedroom used by a child?

(a) Floor space:

(1) Is space that a child can use for daily activities;

(2) Does not include closets or other alcoves; and

(3) May not be averaged.

(b) You must provide comfortable sleeping arrangements that meet one of the following:

(1) A single occupancy bedroom with at least 80 square feet of floor space; or

(2) A bedroom with at least 60 square feet of space for each occupant and no more than four occupants per bedroom are permitted even if the square footage of the room would accommodate more than four occupants. The four-occupant restriction does not apply to children receiving treatment services for primary medical needs.

~~(c) If we granted you a permit to provide emergency care services to a child prior to January 1, 2007, then you are exempt from the 60 square feet of bedroom space for each occupant and the maximum bedroom occupancy requirement until:~~

~~(1) You move your operation to a new building;~~

~~(2) You structurally alter the current building by adding a new room; or~~

~~(3) Your permit is no longer valid.~~

~~(d) If ~~prior to January 1, 2007,~~ we granted you a permit prior to January 1, 2007, then you are exempt from the maximum bedroom occupancy requirement until:~~

~~(1) You move your operation to a new building;~~

~~(2) You structurally alter the current building by adding a new room; or~~

~~(3) Your permit is no longer valid.~~

(d) If we granted you a permit to provide emergency care services to a child prior to January 1, 2007, then you are also exempt from the 60 square feet of bedroom space for each occupant until:

(1) You move your operation to a new building;

(2) You structurally alter the current building by adding a new room; or

(3) Your permit is no longer valid.

§748.3365. What are the requirements for beds and bedding?

(a) You must provide each child with an individual bed or bunk bed in the child's bedroom that elevates the mattress off of the floor. For infants and toddlers, a crib is allowable. For crib requirements, see §748.1751 of this title (relating to What specific safety requirements must my cribs meet?).

(b) Each bed being used by a child must have:

(1) A clean and comfortable mattress; and

(2) A mattress cover or protector if the child is not provided with a mattress that is waterproof.;

(c) You must also provide the child with:

~~(1)(3)~~ A pillow and ~~bed~~-linens appropriate for the temperature, including a pillowcase, top sheet, and fitted or bottom sheet;

~~(2)(4)~~ Extra linens as needed for the child's warmth and comfort, such as a blanket or bedspread; and

~~(3)(5)~~ Clean ~~bed~~-linens that are changed or laundered if used by a different child and as often as needed for cleanliness and sanitation, but not less than once a week.

~~(d)(6)~~ If laundry service is not provided, laundry facilities supplied with hot and cold water under pressure must be provided for all children in care to use.

Subchapter P, Physical Site

Division 5, Food Preparation, Storage, and Equipment

§748.3443. What are the requirements for storing food?

The following are best practices for food storage:

- *Cook or freeze fresh poultry, fish, ground meats, and variety meats within 2 days and*

other beef, veal, lamb, or pork within 3 to 5 days;

- Wrap perishable food such as meat and poultry securely to maintain quality and to prevent meat juices from getting onto other food;
- To maintain quality when freezing meat and poultry in its original package, wrap the package again with foil or plastic wrap that is recommended for the freezer;
- Store high-acid canned foods such as tomatoes, grapefruit, and pineapple on the shelf no longer than 12 to 18 months; and
- Store low-acid canned food such as meat, poultry, fish, and most vegetables no longer than 2 to 5 years, if the can remains in good condition and has been stored in a cool, clean, and dry place.
- There is a "Cold Storage Chart" in Technical Assistance that has ~~Cold Storage Chart~~ ~~These~~ short, but safe, time limits which will help keep refrigerated food from spoiling or becoming dangerous to eat. Because freezing keeps food safe indefinitely, recommended storage times are for quality only.

Subchapter P, Physical Site

Division 6, Play Equipment and Safety Requirements

DELETE §748.3481. If my operation was previously granted a permit by Licensing, will I be given additional time to comply with the requirements of this division?

Subchapter P, Physical Site

Division 7, Playground Use Zones

DELETE §748.3535. If my operation was previously granted a permit by Licensing, will I be given additional time to comply with the requirements of this division?

Subchapter P, Physical Site

Division 8, Protective Surfacing

DELETE §748.3567. If my operation was previously granted a permit by Licensing, will I be given additional time to comply with the requirements of this division?

Subchapter P, Physical Site

Division 9, Swimming Pools, Wading/Splashing Pools, and Hot Tubs

§748.3601. What are the requirements for swimming pools that a child uses?

If a swimming pool with more than two feet of water is used in an activity sponsored by you, then the swimming pool, either at or away from your operation, must meet the following criteria:

(1) At least two life-saving devices must be available, such as a reach pole, backboard, buoy, or a safety throw bag with a brightly colored buoyant rope or throw line;

- (2) One additional life-saving device must be available for each 2,000 square feet of water surface, so a pool of 2,000 square feet would require three life saving devices;
- (3) Drain grates, vacuum outlets, and skimmer covers must be in place, ~~in good repair, and unable to be removed without using tools;~~
- (4) Pool chemicals and pumps must be inaccessible to all children;
- (5) Machinery rooms must be locked when any child is present;
- (6) All parts of the swimming pool must be clearly visible during the use of the pool;
- (7) The bottom of the pool must be visible during the use of the pool at all times;
- (8) Pool covers must be completely removed prior to pool use and must not present an entrapment hazard; and
- (9) ~~All indoor/outdoor areas within 50 feet of the pool must be free of furniture and equipment that a child could use to scale a fence or barrier or release a lock; and~~
- ~~(10)~~ Swimming area rules and emergency procedures must be posted at the swimming area and explained to the children.

§748.3603. What are the additional requirements for a swimming pool located at my operation?

(a) - (k) (No change.)

(l) The drain grates, vacuum outlets, and skimmer covers that must be in place, must also be in good repair, and not be able to be removed without using tools.

(m) All indoor/outdoor areas within 50 feet outside of the fence around the pool must be free of furniture and equipment that a child could use to enter the pool area by scaling a fence or barrier or releasing a lock.

~~If you have a pool on the premises of your operation and we granted you a permit before January 1, 2007, then you have five years from January 1, 2007, to comply with the specific requirements of this rule. However, during this five-year period, you must ensure:~~

~~(1) Children do not have unsupervised access to the pool; and~~

~~(2) There is an adult present who is able to immediately turn off the pump and filtering system when children are swimming.~~

*Subchapter Q, Recreation Activities
Division 1, General Requirements*

§748.3701. What are my responsibilities for providing opportunities for recreational activities and physical fitness?

(a) - (d) (No change.)

(e) You must provide the following types of recreational activities based on each individual child's needs:

Types of service	The caregivers must:
(1) Child-care services	(A) Ensure that opportunities to participate in community activities, such as school sports or other extracurricular school activities, religious activities, or local social events, are available to the child;

	and (B) Organize community activities, religious activities, or local social events that are available to the child.
(2) Treatment services	(A) Meet the requirements in paragraph (1)(A) of this chart; (B) Ensure that each child receiving treatment services has an individualized recreation plan designed by the service planning team or professionals who are qualified to address the child's individual needs, that the plan is implemented, and that the plan is revised by the service planning team or qualified professionals, as needed; and (C) Ensure that medical and physical support are given if the recreational and leisure-time activities require it for a child who is receiving treatment services for primary medical needs, <u>autism spectrum</u> , pervasive developmental disorder, or <u>intellectual disability</u> mental retardation .

§748.3705. What are higher risk recreational activities?

Higher risk recreational activities are activities that present a greater potential of injury to the child and involve special technical skill, equipment, or safety regulations for participation, including using all-terrain vehicles, swimming ~~and water~~ activities, watercraft activities, riding horses, wilderness hiking and camping excursions, trampoline use, and using weapons, firearms, explosive materials, and projectiles.

Subchapter Q, Recreation Activities
Division 2, Swimming Activities

Helpful Information

The rules in this Division apply to swimming activities that are sponsored by the operation, whether the swimming activity is at the operation or away from the operation.

§748.3751. Must a certified lifeguard be on duty during a swimming activity?

- (a) A certified lifeguard must supervise children at all times during a swimming activity involving a body of water two feet deep or more which occurs at your operation.
- (b) At all times during a swimming activity sponsored by the operation involving a body of water two feet deep or more which occurs away from your operation:
 - (1) If there are six or fewer children participating in the swimming activity, at least one adult counted in the swimming child/adult ratio must be able to swim or must be trained to carry out a water rescue; and
 - (2) If more than six children are participating in the swimming activity, a certified lifeguard must also be on duty.
- (c) A child in your care who is a certified lifeguard may act as the lifeguard if he is:
 - (1) At least 16 years old; and
 - (2) Not counted as an adult or caregiver in the required child/adult swimming ratio.

§748.3753. ~~Who~~ ~~What~~ must provide a certified lifeguard's training ~~consist of~~?

A certified lifeguard's training must be:

- ~~(1) Be provided through a recognized organization;~~
- ~~(2) Be taught by a certified instructor; and~~
- ~~(3) Award a valid lifeguard certificate or its equivalent documenting successful completion of the training. The certificate does not have to use the term "lifeguard," but you must be able to document that the certificate represents the type of training required in supervision, rescue techniques, life saving, and water safety.~~

§748.3757. What are the child/adult ratios for swimming activities?

(a) The maximum number of children one adult can supervise during swimming activities is based on the age of the youngest child in the group and is specified in the following chart:

If the age of the youngest child is...	Then you must have one adult to supervise every (number) child/ren in the group	<u>Then the Swimming Child/Adult Ratio is</u>
0 to 23 months old	1	1:1
2 years old	2	2:1
3 years old	3	3:1
4 years old	4	4:1
5 years old or older	You must meet the applicable child/caregiver ratios as provided in §748.1003 of this title (relating to For purposes of the child/caregiver ratio, how many children can a single caregiver care for during the children's waking hours?).	

(b) When all of the children in the group are four years of age or older, in ~~in~~ addition to meeting the required swimming child/adult ratio listed in subsection (a) of this section, ~~if four or more children are engaged in swimming activities, then there must be~~ at least two adults must ~~to~~ supervise four or more the children who are actually in the water.

(c) When a child who is non-ambulatory or who is subject to seizures is engaged in swimming activities, you must assign one adult to that one child. This adult must be in addition to the lifeguard on duty in the swimming area. You do not have to meet this requirement if a licensed physician writes orders in which the physician determines that the child:

- (1) Is at low risk of seizures and that special precautions are not needed; or
- (2) Only needs to wear an approved life jacket while swimming and additional special precautions are not needed.

Helpful Information

Regarding subsection (b), if you take four 4-year olds swimming, subsection (a) only requires one person to supervise the four children. However, if all four 4-year olds are actually in the water at the same time, then subsection (b) requires there to be at least two adults to supervise the children.

§748.3765. What are the requirements for a child's access to a body of water?

(a) ~~You must use prudent judgment and ensure children in your care are protected from unsupervised access to a body of water such as a swimming pool, hot tub, pond, river, lake, or creek.~~

(b) Prior to any activity regarding a body of water, you must explain the dangers of the body of water and the rules governing the activity to the children in a manner that each child can understand.

(b)(e) If your operation sponsors a swimming activity and you allow a child to swim in a body of water:

(1) The supervising adult must clearly designate the swimming areas;

(2) You must meet the swimming child/adult ratios; and

(3) If more than six children are participating in the activity, you must have life-saving equipment present at all times that is sufficient to reach and rescue the child, such as a safety throw bag with a brightly colored 50-foot buoyant rope or a rescue boat equipped with a reach pole and a buoy.

Subchapter Q, Recreation Activities

Division 3, Watercraft Activities

Helpful Information

The rules in this Division apply to watercraft activities that are sponsored by the operation, whether the water activity is at the operation or away from the operation.

§748.3801. What watercraft activities do the rules of this division apply to?

The rules of this division apply to activities involving bodies of water ~~activities~~:

(1) In which more than six children participate; and

(2) That involve boats, canoes, kayaks, sailboats, rafts, jet skis, or inflatable tubes.

Subchapter Q, Recreation Activities

Division 5, Trampoline Use

§748.3891. May I use a trampoline?

(a) You may use a trampoline ~~for individual use~~ if:

(1) The use of the trampoline and the number of children allowed on the trampoline at one time meets the manufacturer's instructions;

(2) Shock-absorbing pads cover the springs, hooks, and frame;

(3) Ladders are removed from the trampoline when the trampoline is not in use; and

(4) A caregiver provides supervision as follows:

(A) For children under 12 years old, the caregiver must be immediately present, watching the child/ren at all times, enforcing safety rules and manufacturer's instructions, and able to respond to an emergency; and

(B) For children 12 years old and older, the caregiver must be on the premises, visually check on the child/ren at frequent intervals, and able to respond in an emergency~~it is less than four feet in diameter and no higher than 12 inches above a properly installed and maintained protective surface as defined in §748.3563 of this title (relating to What are the requirements of protective surfacing for use zones?).~~

(b) You may use a trampoline as gym equipment as provided in §748.3893 of this title (relating to What are the requirements for using a trampoline as gym equipment?).

Subchapter Q, Recreation Activities

Division 6, Weapons, Firearms, Explosive Materials, and Projectiles

§748.3931. Are weapons, firearms, explosive materials, and projectiles permitted at my operation?

Generally, weapons, firearms, explosive materials, and projectiles (such as darts or arrows)⁷ are permitted, however, there are some specific restrictions:

(1) - (4) (No change.)

(5) No child may use a weapon, firearm, explosive material, projectile, or toy that explodes or shoots, unless the child is directly supervised by a qualified adult. A qualified adult must hold a generally recognized credential or possess documented knowledge and/or experience in the type of the weapon, firearm, explosive material, projectile, or toy that explodes or shoots that is to be used by the child.

Subchapter R, Transportation

Division 2, Safety Restraints

DELETE §748.4041. What safety restraint system must I use when I transport children?

NEW §748.4041. What are the requirements for transporting children?

The driver and all passengers must follow all federal, state, and local laws when driving, including laws on the use of a child passenger safety seat system, seat belts, and liability insurance.

Helpful Information

The Transportation Code prohibits a child under five years old to ride on a motorcycle, unless seated in a sidecar.

Below is a chart from the web site of the Texas Department of Public Safety regarding child passenger safety seat system:

<u>Child Passenger Recommendations</u>		
<u>2013 Child Passenger Safety National Best Practice Recommendations</u>		
<u>Phase 1</u>	<u>Rear-Facing Seats</u>	<u>Infants: Birth – 35+ pounds, 2+ years old. Rear-facing infant or rear-facing convertible safety seat as long as possible, up to the rear-facing height or weight limit of the seat. Properly install according to instructions in owner's manual, rear-facing in the back seat.</u>
<u>Phase 2</u>	<u>Forward-facing Seats</u>	<u>When children outgrow the rear-facing safety seat (2+ years), they should ride in a forward-facing safety seat as long as possible, up to the upper height or weight limit (40 – 80+ pounds) of the harnesses. Usually 4+ years old. Properly installed forward-facing in the back seat. NEVER turn forward-facing before child meets all: AGE/HEIGHT/WEIGHT requirements set by safety seat manufacturer for forward-facing.</u>
<u>Phase 3</u>	<u>Booster Seats</u>	<u>After age 4 and 40+ pounds, children can ride in a booster seat with the adult lap and shoulder belt until the adult safety belt will fit them properly (usually when the child is 4'9" tall, 10 – 12 years old). MUST have a lap/shoulder belt to use a booster seat.</u>
<u>Phase 4</u>	<u>Adult Safety Belt</u>	<u>Once children outgrow their booster seat (usually at 4'9", 10 – 12 years) they can use the adult lap/shoulder safety belt if it fits them properly. Lap portion low over the hips/tops of thighs and shoulder belt crosses the center of the shoulder and center of the chest.</u>
<u>Children are better protected the longer they can stay in each phase. Keep children in each seat up to the maximum age/weight/height limits before moving to the next phase. ALL children younger than age 13 years should ride properly restrained in the back seat.</u>		

§748.4043. Do the seat belt requirements prohibit transporting children in the bed of a pick-up truck?

(a) - (b) (No change.)

(c) At all other times transportation is provided by the operation, employees, or volunteers, each child must be in a child passenger safety restraint seat system when the vehicle is in motion.

§748.4045. May I place more than one person in each ~~safety belt or child passenger~~ safety seat system or seat belt?

No. Only one person may use each ~~safety belt or child passenger~~ safety seat system or seat belt.

DELETE §748.4047. Must caregivers, adults, and/or the driver wear a seat belt?

Subchapter S, Additional Requirements for Operations That Provide Emergency Care Services

Division 1, Service Management

§748.4213. What are the requirements for a preliminary ~~written~~ discharge plan?

(a) If the child receives emergency care services for more than 15 days, you must have a written preliminary discharge plan for the child from the person responsible for the child.

(b) You must place the preliminary discharge ~~written~~ plan in the child's record on or before the child's 16th day in care at your operation.

(c) You must obtain written documentation from the person responsible for the child that the preliminary discharge plan is reviewed and updated at least weekly.

(d) The preliminary discharge plan and weekly reviews must be available for our review.

Subchapter S, Additional Requirements for Operations That Provide Emergency Care Services

Division 3, Respite Child-Care Services

§748.4261. May I provide respite child-care services?

(a) Respite child-care services are not subject to regulation under this subchapter, if the:

- (1) Respite child-care services are completely separate from the emergency care services. You must provide the respite child-care services in a completely separate physical space using different caregivers from the caregivers for the emergency care services; and

- (2) Care meets the short-term program's criteria for exemption as specified §745.117(2) ~~does not exceed 40 days per year as outlined in §745.117(6)~~ of this title (relating to Which programs of limited duration are exempt from Licensing regulation?).

(b) (No change.)

§748.4265. What information regarding a child must I receive prior to providing respite child-care services to that child?

To ensure continuity of care, you must obtain the following information:

(1) Specific needs of a child, including:

(A) All psychological, psychiatric, or medical treatment currently being provided;

(B) Medication regimen and medication instructions;

(C) Authorization for medical treatment; **and**

- (D) Safety plans, including any special supervision precautions;
 - (E) Sleeping information;
 - (F) Discipline instructions;
 - (G) Any expectations that the current caregiver may have of the operation; and
 - (H) Any other needs of a child that should be addressed by the operation~~respite~~
~~child-care services provider;~~
- (2) Non-routine events taking place in the life of the child, including any scheduled appointments such as family and sibling visits;
- (3) - (4) (No change.)

Subchapter T, Additional Requirements for Operations That Provide an Assessment Services Program
Division 1, Regulation

§748.4301. Does Licensing regulate all assessment services?

- (a) No. This subchapter only regulates general residential operations ~~and residential treatment centers~~ that also provide an assessment services program.
- (b) Services provided by other individuals, agencies, and organizations are not subject to regulation under this subchapter.

Subchapter U, Additional Requirements for Operations That Provide Therapeutic Camp Services
Division 1, Definitions

§748.4403. What children are eligible to participate in a therapeutic camp program?

- (a) (No change.)
- (b) Individuals that are not eligible to participate in at therapeutic camp program include:
 - (1) - (6) (No change.)
 - (7) A child diagnosed with Autism Spectrum Disorder~~a Pervasive Development Disorders such as Autistic Disorder, Asperger's Disorder and Rett's Disorder;~~
 - (8) A child diagnosed with an intellectual disability~~Mental Retardation;~~
 - (9) - (10) (No change.)

Subchapter U, Additional Requirements for Operations That Provide Therapeutic Camp Services
Division 2, Activities Requiring Spotting or Belaying

~~Best Practice Suggestion~~

~~It is best practice for an activity requiring spotting or belaying to:~~
~~• Be supervised by an employee having at least six weeks experience in a supervisory~~

~~capacity with a similar type of activity;~~

- ~~• Have spotters and belayers that are instructed in the proper procedures prior to assuming their duties and are directly supervised until competency is demonstrated;~~
- ~~• Have a method established to control access to the equipment and the activity area in order to prevent unauthorized or unsupervised use by a child;~~
- ~~• Have safety checks of all equipment and ropes prior to each use;~~
- ~~• Have a safety orientation for each child prior to allowing the child to engage in the activity; and~~
- ~~• Have each child engaged in the activity wearing appropriate personal protective equipment.~~

Subchapter U, Additional Requirements for Operations That Provide Therapeutic Camp Services

Division 3, Primitive Camping Excursions

§748.4471. What personal hygiene provisions must I provide to a child who participates in a primitive ~~wilderness~~ camping excursion?

You must provide the following to a child who participates in a primitive camping excursion:

- (1) Personal hygiene supplies that are biodegradable;
- (2) A means ~~Means~~ for a child to bathe or clean the child's ~~his~~ body at least twice weekly; and
- (3) Females with body or hand sanitizing wipes or similar products for feminine hygiene purposes.

§748.4473. What are the requirements for laundry provisions on a primitive ~~wilderness~~ camping excursion?

You must provide the following to a child who participates in a primitive camping excursion ~~children~~:

- (1) A ~~Who are on a camping excursion~~ a way to launder clothes at least weekly; or
- (2) Clean ~~With clean~~ clothes at least weekly.